

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

**In the Matter of:**

**CLAIMANT**

**and**

**SAN ANDREAS REGIONAL CENTER, Service Agency**

**DDS No. CS0019809**

**OAH No. 2024080228**

**DECISION**

Administrative Law Judge Mario M. Choi, State of California, Office of Administrative Hearings, heard this matter on November 14, 2024, by videoconference.

Claimant's mother represented claimant. Claimant was not present.

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

The record closed and the matter was submitted for decision on November 14, 2024.



## **ISSUE**

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (Lanterman Act, Welf. & Inst. Code, § 4500 et seq.) for services from SARC?

## **FACTUAL FINDINGS**

### **Background and History**

1. Claimant was born in 2019. He is five years old and lives with his parents and older sister.

2. Claimant was diagnosed with autism spectrum disorder (ASD or autism) in December 2021 at the Lucile Packard Children's Hospital Stanford.

3. SARC accepted claimant into the Early Start<sup>1</sup> program in approximately December 2021. In June 2022, a SARC psychologist reported that claimant did "not show significant delays to qualify him for Lanterman" and that "[h]is relatively short time with services suggests he may not show delays after another 1-2 years of intensive therapies." She nonetheless found claimant eligible for provisional services. After a psychologist assessment was completed in July 2022, SARC determined that claimant was provisionally eligible for regional center services due to substantial impairments in the areas of communication and self-direction.

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<sup>1</sup> The Early Start program is for infants and children younger than 36 months who are at risk for developmental delay or disability. (Gov. Code, § 95000 et seq.)



4. Claimant's local public school district established an Individualized Education Program (IEP) for claimant in June 2022. Because he was transitioning to kindergarten, claimant was reassessed in February 2024 and a new IEP was established.

The IEP and accompanying Report of Assessment for Special Education indicated that claimant had difficulty developing skills in the areas of receptive language, expressive language, and social/behavioral/emotional skills. Specifically, claimant was found to have "significantly below average" expressive language and a "below average" social-emotional score. Claimant's adaptive behavior was "described as being in the low range of functioning relative to individuals of comparable age," with "[m]any strong abilities [that] were also identified." Claimant's academic assessment showed scores "well within the average range."

Claimant attends a public school in a "special education" classroom with others who have autism. He receives speech therapy on a weekly basis.

## **Eligibility Determination**

5. SARC staff members worked with claimant's parents to develop an Individual Program Plan (IPP) for claimant. The most recent IPP, dated September 2023, describes several needs and potential services for claimant, including respite for claimant's parents, a safety kit, and a swim program.

6. In May 2024, a SARC psychologist evaluated whether claimant was eligible for ongoing services under the Lanterman Act. Based only on the then-available information and the failure of claimant's parents to respond to SARC's requests for updated information, SARC's psychologist determined that claimant did not demonstrate significant functional limitations in any of the areas of major life



activity. She concluded that claimant was not eligible for ongoing services under the Lanterman Act.

7. SARC issued a notice of action and an eligibility denial letter to claimant's parents on June 5, 2024. The notice of action notified claimant that he can seek reassessment as he grows and more information becomes available.

An appeal of SARC's determination was filed on August 5, 2024.

### **Claimant's Evidence**

8. Claimant's mother testified about her observations of and concerns for her son. She believes that claimant is significantly impaired in the areas of self-care, receptive and expressive language, learning, and self-direction.

9. Claimant's mother reported that claimant cannot take care of himself. Claimant uses his hands to eat instead of utensils. He uses a straw to drink because he does not know how to drink from a cup. He cannot dress himself and does not understand the concept of weather-appropriate clothing. Due to his sensory issues, claimant does not bathe himself, but instead requires his parents to gently pour water from a bowl on him. Similarly, any nail care must be performed after claimant is asleep. Claimant is potty-trained.

10. Concerning receptive and expressive language, claimant's mother testified that claimant cannot verbally express himself. He cannot maintain a reciprocal conversation and does not understand questions such as "what would you like to eat today." Claimant reads books from back to front. And when claimant is fixated on specific topics of interest, he will not answer questions unrelated to those topics.



A speech therapy assessment was performed on claimant. In a report dated June 24, 2024, the speech therapist determined that claimant had "significant deficits in receptive language development with deficits in following 2-step directions without context and basic concepts when compared to age-matched peers." She also found that claimant had "deficits with early reading skills" and referred claimant to occupational therapy.

11. Claimant's mother testified that claimant learns by repetition. He will replay the same videos and snippets of videos for weeks. Claimant also does not understand the concept of consequences. For instance, he does not understand that fire can burn him.

12. Concerning self-direction, claimant's mother testified that claimant has no awareness of safety or "stranger danger." Claimant does not initiate conversations, attempt to play, or maintain relationships with his peers. He also does not understand personal space. Claimant has recently started hitting his own face.

13. Claimant's mother's concerns about claimant are reasonable. At the same time, these matters do not establish conclusively that claimant has significant functional limitations in three or more areas of major life activity.

## **LEGAL CONCLUSIONS**

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.) 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.) Because the Act is a remedial statute, it must be interpreted broadly. (*California State Restaurant Assn. 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. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subd. (b).) The term "developmental disability" includes intellectual disability, autism, epilepsy, cerebral palsy, and other "disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability." (Welf. & Inst. Code, § 4512, subd. (a).)

3. 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: (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, subd. (l)(1); Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).) The last two major life activities are generally not taken into consideration when evaluating a young child such as claimant.

4. To establish eligibility for regional center 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); Evid. Code, §§ 115, 500.)



5. It is undisputed that claimant meets the diagnostic criteria for autism spectrum disorder, an eligible condition. For the reasons stated in Factual Findings 4, 10, and 12, claimant has also demonstrated significant functional limitations, relative to his peers, in self-direction and in receptive and expressive language. These limitations are directly related to his autism.

6. However, the evidence has failed to establish that claimant has significant functional limitations in a third relevant area of major life activity. Claimant's academic assessment demonstrates that he currently does not have a significant functional limitation in learning (Factual Finding 4). As well, claimant has not demonstrated by a preponderance of the evidence that he has a significant functional limitation in self-care relative to his peers at this time (Factual Finding 9). And there was no evidence that claimant has any limitation in his mobility.

7. Claimant has not established that he is currently substantially disabled within the meaning of the Lanterman Act. As such, claimant is not eligible for regional services at this time.

## **ORDER**

Claimant's appeal from the service agency's determination that he is ineligible for services under the Lanterman Act is denied.

DATE:

Mario M. Choi  
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.