

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

**In the Matter of the Eligibility of:**

**CLAIMANT**

**and**

**INLAND REGIONAL CENTER, Service Agency**

**DDS No. CS0020167**

**OAH No. 2024080736**

**DECISION**

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference and telephone on March 30, 2026.

Dana Hardy, Fair Hearings Representative, represented Inland Regional Center (IRC).

Claimant's adoptive mother represented claimant, who was not present.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on March 30, 2026.

## ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) due to autism spectrum disorder (ASD or autism), or a disabling condition closely related to, or that requires treatment similar to, a person with intellectual developmental disorder<sup>1</sup> (IDD) (fifth category) that causes a substantial disability?

## FACTUAL FINDINGS

### Jurisdictional Matters

1. Claimant is a 16-year-old boy living with his adoptive parents, Claimant's adoptive parents sought services for claimant pursuant to the Lanterman Act on the claimed basis of autism or fifth category.

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<sup>1</sup> The Lanterman Act was amended long ago to eliminate the term "mental retardation" and replace it with "intellectual disability," as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). The more current DSM-5, text revision (DSM-5-TR) no longer uses the term "intellectual disability" and instead refers to the condition as IDD. Many of the regional center forms have not been updated to reflect this change, and during testimony, all of the terms were used interchangeably. Accordingly, for purposes of this decision, as well as all admissible documentary evidence, "mental retardation," "intellectual disability," and "IDD" mean the same thing.

2. IRC notified claimant in a Notice of Action dated January 25, 2024, that claimant is ineligible for regional center services based on IRC's review of records received because claimant does not have a substantial disability as a result of a qualifying condition. Claimant timely appealed this decision.

3. On January 6, 2026, an IRC multidisciplinary eligibility team comprised of a psychologist, medical doctor, and intake counselor reviewed the records pertaining to claimant, including psychological evaluations dated October 17, 2025, October 24, 2025, and November 5, 2025, school district records related to special education dated October 10, 2023, and December 9, 2021, and other records. After review of all records provided, IRC made a determination on January 6, 2026, that claimant has a diagnosis of autism spectrum disorder, level 1, but without accompanying intellectual or language impairment and is not eligible for services based on any developmental disability allowed under the Lanterman Act. This information was conveyed to claimant's adoptive parents by telephone on January 6, 2026.

### **Diagnostic Criteria for Autism and Fifth Category, and Definition of Substantial Disability**

4. Claimant asserts that the developmental disabilities that qualify him for regional center services under the Lanterman Act are ASD and fifth category. Accordingly, this matter proceeded focused on those two categories of eligibility.

### **Diagnostic Criteria for Autism**

5. The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revised* (DSM-5-TR) identifies criteria for the diagnosis of autism spectrum disorder. The diagnostic criteria include persistent deficits in social communication and social interaction across multiple contexts;

restricted repetitive and stereotyped patterns of behavior, interests, or activities; symptoms that are present in the early developmental period; symptoms that cause clinically significant impairment in social, occupational, or other important areas of function; and disturbances that are not better explained by intellectual disability or global developmental delay. An individual must have a DSM-5-TR diagnosis of autism spectrum disorder to qualify for regional center services based on autism.

## **Diagnostic Criteria for Fifth Category**

6. The Lanterman Act states that regional center assistance may be provided to individuals with a disabling condition closely related to IDD or that requires similar treatment to an individual with IDD but does not include other handicapping conditions that are "solely physical in nature." (Welf. & Inst. Code, § 4512, subd. (a).) A disability involving the fifth category must also have originated before an individual turns 18 years old, must continue or be expected to continue indefinitely, and must constitute a substantial disability.

In *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, the appellate court held that the fifth category condition must be very similar to IDD, with many of the same, or close to the same, factors required in classifying a person as meeting the criteria for IDD. Another appellate decision found that eligibility may not be based solely on a person's adaptive functioning; it must include a cognitive component. (*Samantha C. v. State Department of Developmental Services* (2010) 185 Cal.App.4th 1486.) Further, while a person who suffers from mental health or other psychological conditions is not per se disqualified from regional center eligibility under the fifth category, the individual's condition must still be similar to IDD or the individual must still require treatment similar to a person with IDD. (*Id.* at p. 1494.) In

making those determinations, regional centers refer, in part, to the Association of Regional Center Agencies (ARCA) guidelines, discussed below.

7. A person functions in a manner similar to a person with IDD if the person has significant sub-average general intellectual functioning that is accompanied by significant functional limitations in adaptive functioning. Intellectual functioning is determined by standardized tests. A person has significant sub-average intellectual functioning if the person has an IQ of 70 or below. Factors a regional center should consider include: the ability of an individual to solve problems with insight, to adapt to new situations, and to think abstractly and profit from experience. If a person's IQ is above 70, it becomes increasingly essential that the person demonstrate significant and substantial adaptive deficits and that the substantial deficits be related to the cognitive limitations, as opposed to a medical or some other problem. It is also important that, whatever deficits in intelligence are exhibited, the deficits show stability over time.

Significant deficits in adaptive functioning are established based on the clinical judgments supplemented by formal adaptive behavioral assessments administered by qualified personnel. Adaptive skill deficits are deficits related to intellectual limitations that are expressed by an inability to perform essential tasks within adaptive domains or by an inability to perform those tasks with adequate judgment. Adaptive skill deficits are not performance deficits due to factors such as physical limitations, psychiatric conditions, socio-cultural deprivation, poor motivation, substance abuse, or limited experience.

8. In determining whether a person requires treatment similar to a person with IDD, a regional center should consider the nature of training and intervention that is most appropriate for the individual who has global cognitive deficits. This includes

consideration of the following: individuals demonstrating performance-based deficits often need treatment to increase motivation rather than training to develop skills; individuals with skill deficits secondary to socio-cultural deprivation but not secondary to intellectual limitations need short-term, remedial training, which is not similar to that required by persons with IDD; persons requiring rehabilitation may be eligible, but persons primarily requiring rehabilitation are not typically eligible as the term rehabilitation implies recovery; individuals who require long-term training with steps broken down into small, discrete units taught through repetition may be eligible; and the type of educational supports needed to assist children with learning (generally, children with IDD need more supports, with modifications across many skill areas).

## **Substantial Disability**

9. In addition to having a qualifying diagnosis (i.e., autism, intellectual disability, epilepsy, cerebral palsy, or the fifth category), a person must also be substantially disabled as a result of that diagnosis in three or more areas of a major life activity, pursuant to California Code of Regulations, title 17, section 54000, in order to be eligible for regional center services. These areas are: communication (must have significant deficits in both expressive and receptive language), learning, self-care, mobility, self-direction, capacity for independent living, and economic self-sufficiency. The ARCA Guidelines also refer to California Code of Regulations, title 17, sections 54000 and 54001, regarding whether a person has a substantial disability.

## **IRC Evidence**

10. IRC presented the testimony of Dr. Melissa Magallanes, as well as numerous documents received into evidence. The following factual findings are made

based on the testimony of Dr. Magallanes and related documents received in evidence.

### **Testimony of Melissa Magallanes, Psy.D.**

11. Melissa Magallanes is a licensed clinical psychologist in California and founder of Calm PATH Psychological Services, Inc. (Calm PATH), a psychology group she founded in 2023. She received her Psy.D. degree in 2021 and her Master of Arts degree in clinical psychology in 2018, both from the California School of Professional Psychology, Alliant International University. Her responsibilities at Calm PATH include providing comprehensive diagnostic evaluations and review of clinical records for determination of regional center eligibility. Prior to becoming a psychologist, Dr. Magallanes worked as a service coordinator and an intake vendor for four years at San Gabriel Pomona Regional Center. Dr. Magallanes has been trained on the requirements of regional center eligibility under the Lanterman Act. Dr. Magallanes participates as part of the interdisciplinary eligibility team of IRC for determination of Lanterman Act eligibility for services at IRC.

12. Dr. Magallanes described the eligibility criteria as set forth in the Lanterman Act, which requires that an individual have at least one of five developmental disabilities of autism, IDD, cerebral palsy, epilepsy, or fifth category, and also must be substantially disabled as caused by the eligible condition. The individual must have the disability prior to the age of 18 years, and it must be ongoing. The substantial disability is defined as having significant functional limitations in three or more areas of: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. These functional limitations must be present across multiple settings and caused by the eligible condition. Dr. Magallanes stated that regional center eligibility is

not only determined by scores on adaptive functioning tests but also based upon observations by trained clinical professionals.

13. Dr. Magallanes also noted that an individual may have a substantially disabling condition but still not meet regional center eligibility criteria if that condition is not caused by the qualifying condition for regional center services. Dr. Magallanes discussed the requirements for meeting eligibility criteria for the two qualifying conditions at issue in this matter, namely autism and fifth category. With regard to autism, she stated that autism is a neurodevelopmental disorder that presents in childhood with persistent deficits in social communication and social interaction across multiple contexts. With regard to fifth category, she explained that individuals qualifying for services under the fifth category present like an individual with IDD, but their scores and cognitive functioning is not substantially low, and they require some services similar to those required by an individual with IDD.

14. Dr. Magallanes testified that claimant was evaluated for eligibility for regional center services by Alexandra Pudzemis, Psy.D., who is employed by Dr. Magallanes's company, Calm PATH, as a licensed clinical psychologist. Dr. Magallanes reviewed all of the evidence submitted to Calm PATH for the assessment of claimant, and she reviewed the IRC documents, including the eligibility determination from the eligibility team review. Dr. Magallanes stated that based on her review of all of the evidence, claimant is not eligible for regional center services under any category.

15. Dr. Magallanes testified that claimant does not qualify for regional center services under the category of fifth category because his cognitive functioning ranges from high borderline to average, and he is functioning as he should for an individual of his age. She based this finding on her review of psychoeducational evaluation reports from Chino Valley Unified School District from 2021, West End SELPA

Individualized Education Program (IEP) from 2023, West End SELPA IEP from 2024, a psychological evaluation from Dr. Michael Cao from May 2025, and Dr. Pudzemis's evaluation of claimant from October 2025. The cognitive assessments done of claimant as shown in the Chino Valley Unified School District evaluation show a cognitive assessment composite score of 89, which is low average but a score of 90 is average. His educational achievement scores on that document were in the higher borderline to average range. The West End SELPA IEP documents show that claimant's eligibility for special education services was initially specific learning disability and other health impediment, but the specific learning disability basis for special education services was removed from his IEP because he did not meet the criteria for learning disability. The documents show that claimant is on track to graduate with a 2.8 grade point average (GPA), which shows he is functioning as a typical child of his age, as the average GPA is 3.0. The documents show claimant did not need any extended services over the summer because he can retain the information he learned during the school year. It was also noted that claimant attends general education classes and he typically does not use the accommodations given to him such as extra time for assignments, and "chunking assignments," and frequent movement breaks. Dr. Magallanes opined that the documents she reviewed show that claimant does not meet the eligibility requirements for services under the fifth category because he does not function like a person with IDD given his cognitive scores are high borderline to average, and his adaptive functioning is also in the average range. Dr. Magallanes sees no indication that claimant would require any services and supports like someone with IDD.

16. With regard to claimant's assertion that he qualifies for regional center services under the category of autism, Dr. Magallanes stated that claimant does meet the criterial for a diagnosis of autism, but his adaptive functioning scores show that he functions in the borderline to average range, which does not meet the substantially

disabled criteria for eligibility under the Lanterman Act. Dr. Magallanes stated that her review of Dr. Pudzemis's report shows she administered various tests to claimant including: Adaptive Behavior Assessment System, Third Edition (ABAS-III); Autism Diagnostic Interview-Revised (ADI-R); Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), Module 4; Reynolds Intellectual Assessment Scales, Second Edition (RIAS-2); and the Camouflaging Autistic Traits Questionnaire (CAT-Q). Additionally, Dr. Pudzemis conducted behavioral observations, and interviewed teachers and family friends and conducted a clinical interview. Dr. Magallanes stated that her review of this evaluation showed that Dr. Pudzemis concluded that claimant has a diagnosis of autism spectrum disorder at a level one, but he requires minimal support and there were no accompanying cognitive or language impairments. Dr. Magallanes agrees with Dr. Pudzemis's assessment based on the information in the report. The testing done by Dr. Pudzemis also shows that claimant's cognitive functioning is in the high borderline range.

17. Dr. Magallanes opined that claimant did not meet the requirements of substantial disability based upon his autism diagnosis because claimant did not have functional limitations in at least three areas. He did have functional limitations in the area of self-direction because he can be taken advantage of easily and may not always be aware of what to do in an emergency. However, in all other areas of self-care claimant scored in the low average to no substantial deficit range. Claimant speaks clearly and understands when his is given instructions. His capacity for independence is good, and claimant can go to the store and purchase goods.

18. Overall, Dr. Magallanes opined that claimant does not meet regional center eligibility criteria under the diagnosis of autism or under the diagnosis of fifth category, or any other category.

19. Dr. Magallanes also testified that claimant's adoptive mother asserts that claimant has the ability to cheat on his tests and academic assignments, which artificially inflates his performance. However, Dr. Magallanes opined that an individual has to be cognitively aware on how to problem solve in order to be able to cheat, and a person with IDD or fifth category would not be able to do so. She stated that the CAT-Q questionnaire given to claimant during Dr. Pudzemis's evaluation shows that claimant is "masking" his functioning, which means he has learned to adapt to what society wants him to do. She stated that claimant is "trying to fit in."

### **Claimant's Adoptive Mother's Testimony**

20. Claimant's adoptive mother has had custody of claimant since he was four years old. Claimant is now 16 years old, attending high school, and doing independent study. She stated that she believes that the evidence in this matter "does not paint the whole picture," because claimant has learning difficulties, and difficulty fitting in socially. Claimant's adoptive mother believes that claimant has a "gap" between his learning and social skills that will widen over time without support. She stated that claimant has "learned to cheat" on his tests and academic assignments in order to get through school. She believes that as a result, his IEP is an inaccurate representation of his abilities. While she "feels proud of him for being savvy enough to make it through school," she worries about his ability to make it through society after graduation. She stated that claimant has other medical providers, who believe claimant needs regional center services and he would benefit from those services.

## Claimant's Documentary Evidence

21. Claimant's adoptive mother provided a letter she wrote that set forth her position regarding claimant. That letter was received in evidence and provides, in part, as follows:

I imagine a little background would be beneficial. [Claimant] came to my family via adoption through foster care when he was just shy of four years old. At that time he was a scared, traumatized boy who was just starting to talk. [Claimant] has made exceptional progress over the years but I have been advocating in some way or another for him to receive the support he will need. I have been pursuing trying to get him services through the regional center since then. We moved him from LA county to Orange County and then to San Bernardino county. I have seen every kind of doctor and specialist. [Claimant] is a unique and complex boy. [Claimant] has had to develop very savvy skills to survive as a young man. Testing all along the way to see if he would qualify as a regional center client has been arduous. He doesn't quite fit anyone's expectations.

Over the last few years each and every provider have tested [claimant], and then added tests or spent more time with him, or referred him to another specialist and each and every time they have recommended that he be a regional center client. These experts in their fields have all

recognized the need for [claimant] to have extra support into adulthood.

These are people who have spent time with [claimant] over the years. As opposed to people reviewing documents about a case. I hope that I can offer the following research to support my case regarding why I hope you will rule in favor of [claimant].

He is the best, kindest boy. He has tried so hard all his life to fit in to what is considered "normal" according to his peers. But he has always struggled with learning. He requires accommodations at school and extra help with tasks at home. He requires support with self care. He has to be prompted to keep himself and his space free of filth and trash and old food and just basic hygiene. He CAN do the tasks. He just can't without support. His language is affected as far as being susceptible to being taken advantage of by his peers or people older than him. He struggles to infer subtext as it pertains to conversations or instructions or requests made of him. As far as self direction is concerned, he struggles to make the "right" choice. He never intentionally makes a naughty choice but he is entirely driven to make the choices he thinks the people he's around want him to make.

## LEGAL CONCLUSIONS

### **Burden and Standard of Proof**

1. In a proceeding to determine whether an individual is eligible for regional center services, the burden of proof is on the claimant to establish by a preponderance of the evidence that he or she meets the proper criteria. (Evid. Code, §§ 115; & 500.)

### **Applicable Statutes and Regulations**

2. The Legislature enacted the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) to provide a pattern of facilities and services sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. The purpose of the Lanterman Act is twofold: To prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. (*Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388.)

3. Welfare and Institutions Code section 4501 outlines the state's responsibility for persons with developmental disabilities and the state's duty to establish services for those individuals.

4. The Department of Developmental Services (department) is the public agency in California responsible for carrying out the laws related to the care, custody and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.)

5. Welfare and Institutions Code section 4512, subdivision (a), defines developmental disability as a disability that “originates before an individual attains 18 years of age; continues, or can be expected to continue, indefinitely; and constitutes a substantial disability for that individual.” A developmental disability includes “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.*) Handicapping conditions that are “solely physical in nature” do not qualify as developmental disabilities under the Lanterman Act. (*Ibid.*)

6. California Code of Regulations, title 17, section 54000, provides:

(a) “Developmental Disability” means a disability that is attributable to mental retardation,<sup>2</sup> cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

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<sup>2</sup> Although the Lanterman Act has been amended to eliminate the term “mental retardation” and replace it with “intellectual disability,” the California Code of Regulations has not been amended to reflect the currently used terms.

(3) Constitute a substantial disability for the individual as defined in the article.

(c) Developmental Disability shall not include handicapping conditions that 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 mental retardation, 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 mental retardation.

7. California Code of Regulations, title 17, section 54001, provides:

(a) "Substantial disability" means:

(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.

(b) The assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines and shall include consideration of similar

qualification appraisals performed by other interdisciplinary bodies of the Department serving the potential client. The group shall include as a minimum a program coordinator, a physician, and a psychologist.

(c) The Regional Center professional group shall consult the potential client, parents, guardians/conservators, educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained.

(d) Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

## **Evaluation**

8. A preponderance of the evidence did not establish that claimant is eligible for regional center services under a qualifying diagnosis of autism or the fifth category. Credible testimony from Dr. Magallanes demonstrated that claimant simply does not meet the criteria of eligibility under the fifth category based on the records provided in this matter. Additionally, while claimant does have a diagnosis of autism, level one, he does not meet the substantial disability requirements based on his diagnosis of autism to be eligible for regional center services. While it is clear that claimant has struggled with learning and social interaction causing him to have difficulty, those learning and social struggles are not a qualifying diagnosis to receive IRC services.

9. Claimant's adoptive mother was sincere in her frustration on how to obtain the proper support for claimant and is trying to obtain the proper services for claimant. However, based on all the evidence provided, claimant simply failed to meet his burden to establish that he qualifies for services by IRC under the Lanterman Act.

## **ORDER**

Claimant's appeal is denied. Claimant is not eligible for regional center services due to a substantial disability that resulted from autism or a condition that is closely related to an intellectual developmental disorder, or a condition that requires treatment similar to a person with an intellectual developmental disorder. IRC's denial is affirmed.

DATE: April 13, 2026

DEBRA D. NYE-PERKINS  
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 a 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.