

**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. CS0019990

OAH No. 2024080816

DECISION

Sandy Yu, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California (OAH), heard this matter on June 10, 2025, at North Los Angeles County Regional Center (Service Agency) in Lancaster, California.

Cristina Aguirre, Due Process Officer, represented Service Agency.

Claimant's adoptive mother (Mother) and father (Father) represented Claimant, who was not present at hearing. Names are omitted to protect the privacy of Claimant and his family. Mother and Father used the services of a Spanish language interpreter.

The ALJ received testimony and documentary evidence. On June 10, 2025, the ALJ continued the hearing to June 24, 2025, to allow Claimant to submit additional evidence by June 17, 2025, and to allow Service Agency to file a written response, if any.

On June 16, 2025, Claimant filed (1) a 10-page assessment, dated August 1, 2024, from Jakelyn Alfaro, a therapist, marked for identification as Exhibit E; (2) a 11-second video, marked for identification as Exhibit F; and (3) a 21-second video, marked for identification as Exhibit G. On June 24, 2025, Service Agency filed a two-page written response, marked for identification as Exhibit 34. Service Agency did not object to the admission of Exhibits E through G into evidence. Exhibits E through G were admitted into evidence.

The record closed, and the matter was submitted for decision on June 24, 2025.

ISSUE

Is Claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the category of autism spectrum disorder (ASD)?

EVIDENCE RELIED UPON

In reaching this decision, the ALJ relied upon Service Agency's Exhibits 1 through 27, Claimant's Exhibits A through G, and the testimony of the following witnesses: Heike Ballmaier, Psy.D., BCBA; Mother; and Father.

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FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is six years old and lives with Mother and Father. Mother and Father seek regional center services for Claimant because they suspect Claimant has ASD.

2. Service Agency is a regional center designated by the Department of Developmental Services to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act, among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.)

3. On July 30, 2024, Service Agency sent Mother and Father a Notice of Action finding Claimant ineligible for regional center services because he did not meet the criteria for a developmental disability under the Lanterman Act.

4. On August 9, 2024, Mother timely filed a Fair Hearing Request, appealing Service Agency's eligibility determination.

5. All jurisdictional requirements have been met.

Claimant's Background

6. Claimant was born with drugs in his system and was removed from his biological mother's care. He has been diagnosed with fetal alcohol syndrome, Attention Deficit Hyperactivity Disorder (ADHD), and chronic constipation.

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7. On September 26, 2019, when Claimant was three months old, Service Agency found Claimant eligible for Early Start services based on his early developmental delays. Early Start eligibility ends at age three.

8. On July 2, 2021, when Claimant was two years old, Larry Gaines, Ph.D., conducted a remote psychological evaluation with Claimant to determine his levels of cognitive, adaptive, and social functioning and to rule out or substantiate any development disabilities, including intellectual disability and ASD. Dr. Gaines diagnosed Claimant with global developmental delays. Dr. Gaines noted that although Claimant presented with some restricted and repetitive behaviors that may be related to ASD, "autism was not given as a primary diagnosis, but may require future evaluation in-office" with the administration of the Autism Diagnostic Observation Schedule, second edition (ADOS-2). (Exh. 4, p. A29.)

9. On June 1, 2022, when Claimant was three years old, Dr. Gaines conducted an in-person psychological evaluation to determine Claimant's current levels of cognitive, adaptive, and social functioning and to rule out or substantiate a diagnosis of ASD. Dr. Gaines diagnosed Claimant with provisional borderline intellectual functioning. Dr. Gaines noted that he was unable to rule out ASD because Claimant fell asleep prior to the administration of ADOS-2.

10. On June 8, 2022, Service Agency found Claimant provisionally eligible for regional center services based on impairments in expressive and receptive language, and learning. Provisional eligibility applies to three- or four-year-old children who are not diagnosed with a qualifying developmental disability, but have a disability that is not solely physical in nature and have significant functional limitations in at least two of the areas set forth in the Lanterman Act.

11. On June 29, 2022, Dr. Gaines assessed Claimant again and diagnosed him with language disorder and provisional ADHD. Dr. Gaines found Claimant did not meet diagnostic criteria for ASD. He administered the ADOS-2, which is a standardized assessment of a child's communication, social interaction, and restricted or repetitive behaviors that are characteristic of ASD. Claimant's ADOS-2 scores were in the non-autistic range. In his report, Dr. Gaines listed several observations of Claimant which were inconsistent with ASD: appropriate use of eye contact; initiating attention with others; demonstrating good functional play; and no significant restricted or repetitive behaviors. (Exh. 11, p. A65-A66.)

12. On June 20, 2024, when Claimant was five years old, Evelin Garcia, Psy.D., conducted a psychological assessment to determine Claimant's ongoing eligibility for regional center services. Dr. Garcia reviewed various records, including Dr. Gaines' 2021 and 2022 assessments, a 2021 speech and language assessment, and a 2022 speech and language therapy discharge report. She also observed Claimant's behavior and interviewed Mother and Father.

13. Dr. Garcia administered various tests, including the ADOS-2, to assess Claimant. Claimant's overall score for the ADOS-2 was in the "non-spectrum" range. (Exh. 18, p. 119.) Based on her review of Claimant's records and assessment scores, Dr. Garcia diagnosed Claimant with ADHD, language disorder, and speech sound disorder. (Exh. 18, p. A123.)

14. On July 25, 2024, Carlo DeAntonio, M.D., a member of Service Agency's interdisciplinary eligibility team, conducted a chart review of Claimant's medical records. Dr. DeAntonio reviewed a visit summary dated May 23, 2023, from Claimant's pediatrician, Brian Gaw, M.D., who noted Claimant's history of speech and language delays, delayed milestones, ADHD, fetal alcohol spectrum and "possible" ASD, which is

“high function autism.” (*Ibid*). In his visit summary, Dr. Gaw did not document his use of any ASD specific assessment tools, nor did he diagnose Claimant with ASD. Dr. DeAntonio recommended the interdisciplinary eligibility team conduct further review.

Service Agency’s Denial of Eligibility

15. On July 30, 2024, Service Agency’s interdisciplinary eligibility team determined that Claimant was not eligible for regional center services because he does not present with a developmental disability, as defined by the Lanterman Act. The team consisted of two psychologists and two physicians. In making its determination, the interdisciplinary eligibility team relied on a combination of Service Agency’s assessments of Claimant and documents provided by Claimant’s family, including medical records.

16. Dr. Ballmaier, Service Agency’s Senior Clinical Psychologist, was a member of the interdisciplinary eligibility team and testified regarding the team’s findings.

Claimant’s Eligibility for Services

ASD DIAGNOSTIC CRITERIA

17. According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), the diagnostic criteria for ASD consist of two parts. The first set of criteria, Part A, requires persistent deficits in social communication and social interaction across multiple contexts, as manifested by all the following: (1) deficits in social-emotional reciprocity; (2) deficits in nonverbal communicative behaviors used for social interaction; and (3) deficits in developing, maintaining and understanding relationships. The second set of criteria, Part B, requires restrictive, repetitive patterns

of behavior, interests, or activities, as manifested by at least two of the following: (1) stereotyped or repetitive motor movements, use of objects, or speech; (2) insistence of sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behaviors; (3) highly restricted, fixated interests that are abnormal in intensity or focus; and (4) hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment.

Part A

18. Dr. Garcia found Claimant met some of the criteria listed in Part A. Claimant had limited social-emotional reciprocity due to his language delays. Dr. Garcia noted despite his limited social-emotional reciprocity, Claimant tries to "communicate verbally and through pointing, showing and shifting gaze," and to "initiate and respond to social interactions." (Exh. 18, p. A119-A120.) However, Claimant did not exhibit deficits in nonverbal communicative behaviors, as he made age-appropriate eye contact and used nonverbal gestures. (Exh. 18, p. A120.) Claimant also did not exhibit deficits in developing, maintaining, and understanding relationships. As reported by Mother and Father, Claimant approached his peers and is "social." (*Ibid.*)

Part B

19. Dr. Garcia found Claimant did not meet any of the criteria listed in Part B. Claimant did not exhibit stereotyped or repetitive movements. Although Mother and Father reported Claimant engaged in lining up toys, Dr. Garcia did not observe such behavior. Claimant did not exhibit insistence on sameness or an inflexible adherence to routines, as Mother and Father did not report difficulties with transitions or changes. Claimant did not exhibit highly restricted, fixated interests, as Mother and

Father did not report such concerns. Claimant did not exhibit unusual interest in sensory aspects of the environment. Although Mother and Father reported Claimant has sensory difficulties, Dr. Garcia did not observe any sensory and self-stimulatory behaviors.

REVIEW OF ADDITIONAL INFORMATION PROVIDED BY CLAIMANT

20. After Service Agency's interdisciplinary eligibility team determined Claimant was ineligible for regional center services, Mother and Father provided a letter, dated September 24, 2024, from Anjam Bahl, M.D., Claimant's psychiatrist. In her letter, Dr. Bahl determined Claimant met the DSM-5 diagnostic criteria for ASD, based on her clinical evaluation and medical record review. (Exh. 23, p. A144.) Dr. Ballmaier testified that although Dr. Bahl diagnosed Claimant with ASD, the letter did not change Service Agency's determination because Dr. Bahl did not document her use of any ASD specific assessment.

21. At the hearing, Mother and Father provided several additional documents: (1) a visit summary, dated April 21, 2025, from Shruti Nabar, M.D., a gastroenterologist, noting Claimant's ASD diagnosis; (2) an undated letter from Jay Desai, M.D., a neurologist, stating Claimant has ASD; (3) three letters, dated October 15, 2024, January 29, 2025, and May 27, 2025, respectively, from Dr. Bahl, noting her previous diagnosis of Claimant with ASD; (4) a letter, dated August 27, 2024, from Jakelyn Alfaro, a mental health specialist; (5) a behavioral health services progress report, dated December 11, 2024, from Autism Learning Partners, noting Claimant's ASD, ADHD, and fetal alcohol syndrome diagnoses; (6) an agreement for short-term independent study between Claimant and Lancaster School District; and (7) a student study team and 504 plan between Claimant and his school, noting Claimant's ASD, ADHD, and fetal alcohol syndrome diagnoses. Dr. Ballmaier reviewed each document

and testified none changed her opinion regarding Claimant's eligibility for regional center services. None of the healthcare providers, including Dr. Bahl, indicated they used any ASD-specific assessment tools, such as ADOS-2, to determine Claimant's ASD diagnosis. In her October 15, 2024 and January 29, 2025 letters, Dr. Bahl explained she believed Claimant met the DSM-5 diagnostic criteria for ASD, but did not provide further detail about how she arrived at her conclusions. (Exh. C, p. B8, B10.)

22. After the hearing, Mother and Father provided (1) a 10-page assessment, dated August 1, 2024, from Ms. Alfaro; (2) a 11-second video of Claimant; and (3) a 21-second video of Claimant. In her assessment, Ms. Alfaro listed the diagnosis of ASD, which was based on Dr. Bahl's diagnosis of Claimant. In the written response dated June 24, 2025, Service Agency's interdisciplinary eligibility team stated that the members reviewed Ms. Alfaro's assessment and determined that Claimant's additional documents did not change their eligibility determination because Ms. Alfaro's assessment did not contain any information regarding the use of ADOS-2 or any other testing to support an ASD diagnosis. Service Agency's interdisciplinary eligibility team also reviewed the two videos of Claimant submitted by Mother and Father and determined Claimant's behaviors in the videos were consistent with typical child play.

Analysis

23. Claimant did not prove he has ASD. Using the ADOS-2, both Dr. Garcia and Dr. Gaines found Claimant did not meet the diagnostic criteria for ASD. Although Claimant's psychiatrist, Dr. Bahl, diagnosed Claimant with ASD, she did not document her use of any ASD-specific assessment, such as the ADOS-2. At the hearing, Dr. Ballmaier testified the ADOS-2 is the "gold standard" tool to assess for ASD and based on her review of the case, Claimant does not have ASD. Dr. Bahl did not testify at the

hearing. Without additional evidence, the diagnosis of ASD from Dr. Bahl does not outweigh Dr. Ballmaier's credible testimony and Service Agency's assessment findings.

24. Claimant did not argue he has any other qualifying developmental disability, specifically intellectual disability, cerebral palsy, epilepsy, or a condition similar to intellectual disability or requiring treatment similar to that required by individuals with intellectual disability. At the hearing, Dr. Ballmaier testified based on her review of the case, Claimant does not have an intellectual disability or a condition similar to an intellectual disability.

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 he meets the proper criteria. (Evid. Code, §§ 115; 500.) "Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Applicable Law

2. The Legislature enacted a comprehensive statutory scheme known as 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 statutory scheme 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. The Department of Developmental Services is the public agency 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.)

4. Under the Lanterman Act, a developmental disability is 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 intellectual disability, cerebral palsy, epilepsy, ASD, and other conditions similar to intellectual disability or requiring treatment similar to that required by individuals with intellectual disability, i.e., the fifth category. (Welf. & Inst. Code, § 4512, subd. (a).)

Determination of Claimant's Ineligibility for Services

5. Claimant did not prove by a preponderance of the evidence he is eligible for regional center services because he did not prove he has ASD or any other qualifying developmental disability, as described in Factual Findings 23 and 24. Claimant may present further evidence to the regional center, at some later date, so that he can be re-assessed for his eligibility for services.

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ORDER

Claimant's appeal is denied. Claimant is not eligible to receive regional center services.

DATE:

Sandy Yu

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.