BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

SAN ANDREAS REGIONAL CENTER, Service Agency.

DDS No. CS0020343

OAH No. 2024090139

DECISION

Administrative Law Judge Sara B. Tosdal, State of California, Office of Administrative Hearings, heard this matter on October 1, 2025, in Salinas, California.

Esmeralda Rivera represented service agency San Andreas Regional Center.

Claimant was represented by his mother. Claimant was not present at hearing.

The record closed and the matter was submitted for decision on October 1, 2025.

ISSUE

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) for services from the San Andreas Regional Center (SARC)?

FACTUAL FINDINGS

Background

1. Claimant was born in September 2019 and is now 6 years old. Claimant lives with his parents.

2. Claimant was found eligible to participate in the Early Start program on May 11, 2021. On November 14, 2022, claimant was found eligible for provisional services through SARC based on "substantial impairment" in the areas of self-care and self-direction.

3. On October 27, 2022, when he was three years and one month old, claimant was diagnosed with Autism Spectrum Disorder (autism), a chronic, lifelong condition, at Stanford Children's Health. He was prescribed Applied Behavioral Analysis (ABA) therapy, speech therapy, and occupational therapy to help with his development. The dispute here is whether claimant is substantially disabled by autism for the purposes of Lanterman Act eligibility.

Eligibility Determinations and Appeal

4. On April 29, 2024, when claimant was approximately four years and seven months old, Ashley Berry, Psy.D., a clinical psychologist for SARC, determined that claimant would not be eligible for full services after his fifth birthday because claimant

was "making slow and steady progress, which does not support [] lifelong impairment." Dr. Berry concluded that claimant was ineligible "at this time, but his parents can reapply if his progress plateaus and he does not continue to make gains over the next 3-4 years."

5. On July 2, 2024, SARC issued a notice of action, finding that claimant was not eligible for services under the Lanterman Act. Claimant filed an appeal request on August 30, 2024.

6. While the appeal was pending, SARC requested an eligibility redetermination assessment. On November 21, 2024, Jamie A. Cisar, Psy.D., H.S.P.P., conducted an in-person assessment with claimant and his mother. Dr. Cisar rated claimant's autism symptoms at minimal-to-none, with a raw score of 25.5 on the Childhood Autism Rating Scale, Second Edition (CARS2-ST). Dr. Cisar determined that claimant was not eligible for Lanterman Act services because he was not "substantially disabled in three or more areas."

7. On September 30, 2025, Ivania Molina, Ph.D., a clinical psychologist with SARC, determined that claimant met the diagnostic criteria for "Level 1 autism," which is the mildest form of autism. However, Dr. Molina concluded that claimant was not substantially disabled because of the continued and anticipated progress he has made with his previous and existing therapies and interventions. Dr. Molina recognized that claimant struggled with food intake but did not consider this to be an area of substantial disability. Dr. Molina noted that there was no evidence of excessive tantrums or self-injurious behaviors.

8. At hearing, SARC stated that there was insufficient evidence of substantial disability at this time, but that if claimant regressed, plateaued, or became worse, claimant's parents could reapply for services.

Claimant's Treatments and Services

9. Claimant has been receiving ABA therapy that is funded through private insurance since March 2023, first with Trumpet Behavioral Health and now with Catalight Care Services. Additionally, he has received speech therapy since he was 18 months old. Speech-therapy services are provided and funded through his schools, initially with Head Start and then at preschool and kindergarten under his Individualized Educational Program (IEP). He has also received occupational therapy from his school under his IEP.

When he was provisionally eligible for regional center services, claimant participated in a social swimming class that was coordinated and partially funded by SARC. SARC was also working with the parents on obtaining respite services and, according to his parents, assisted with funding occupational therapy related to claimant's food intake.

CLAIMANT'S PROGRESS WITH SCHOOL-PROVIDED SERVICES

10. Claimant has had an IEP in place since October 4, 2022, when he was in preschool. His next assessment was scheduled for October 7, 2025, after the hearing in this matter. He is in general education classes in public school, with special education supports. With supports due to his IEP, claimant has made progress in many areas.

11. Claimant was initially found eligible for special education services primarily due to autism and secondarily for speech-language impairment. At the time

(in 2022), claimant could not dress himself and was not toilet-trained. He was found to have developmental delays (or be below average) in motor skills, adaptive behavior, social and emotional understanding, cognitive abilities, and communication. Claimant's raw CARS2-ST score was 35.5, "in the mild-to-moderate" range of autism symptoms. The assessment noted that claimant used highly scripted language, using echolalia; was a selective eater; had moderate difficulty relating to others; did not engage with people outside of his family; and had trouble adjusting to certain clothing, including long sleeves. The assessment concluded that, with respect to communication skills, claimant's "greatest need is in his receptive and social language." At that time, the supports were specialized academic instruction twice a week and weekly speech-language therapy within the general education environment, as well as an extended school year.

12. On October 9, 2024, when he was in kindergarten, claimant was reassessed for continuing special education eligibility. The reassessment found claimant ineligible on the basis of autism because his verbal scores were too high, though he exhibited social interaction deficits. However, claimant was found eligible for continued services on the basis of "Other Health Impairment due to [a]utism."

The reassessment further found claimant to be reading a grade or two above his level. Claimant's behavior, including elopement or reacting aggressively when overstimulated and interacting with other children, had improved over the school year. However, in math, claimant did "not seem to currently have a basic number sense and/or number concept, other than number identification." His math skills were in the limited-to-average range, and well below his age level. Claimant's conversational and social skills were also limited when compared to his peers. The reassessment determined that claimant was unable to "infer a belief in the context of an unexpected

location change," and did not demonstrate an understanding that other people's actions could be based on their beliefs, perceptions, or what they could observe in a different physical position. The reassessment found:

> These challenges could cause him to have difficulty relating to others and understanding the perspective of others . . . . In addition, these skills are necessary for understanding children's stories and literature, as well as being prerequisite skills for understanding false beliefs and false contents tasks, which typically develop by age 4-5 years.

Additionally, claimant showed some developmental delays in fine motor skills and sensory processing, becoming "easily overwhelmed in busy environments."

Following this reassessment, claimant's new supports consisted of continued weekly specialized academic instruction and weekly speech therapy, as well as monthly occupational therapy.

CLAIMANT'S PROGRESS WITH ABA THERAPY

13. Claimant has also made progress over time with ABA therapy services. He was initially prescribed 35 hours per week of direct services, 30 hours per month of direct supervision, and two hours per month of caregiver training. As of February 2024, the recommendation for direct service hours was reduced to 25 hours per week. His treatment plans focus on improving receptive and expressive speech, including engaging in conversations and increasing his social skills; improving adapting to change in routine or from preferred to "non-preferred" activities; improving his food intake; and improving his elopement behaviors (running and wandering away).

As of March 11, 2025, claimant had met 90 percent of his ABA goals, primarily in conversational and social skills but also in elopement. Claimant had not met his goals of tolerating change in routine or activities or improving his food intake. Claimant's food intake regressed over time, as the initial treatment plan of having him eat new (or "novel") foods changed to having him only chew them. Claimant's new goals included continuing his improvement in receptive and expressive language, as well as continuing to work on the unmet goals for his tolerance for change and food intake.

Testimony of Claimant's Parents

14. Claimant's parents both testified on his behalf at hearing. Claimant's parents believe that their concerns with his safety, language, and self-care abilities are not accurately reflected in Dr. Molina's assessment. According to his parents, since claimant turned five in 2024, he has only been receiving ABA therapy. Although he is improving with ABA therapy, he has either plateaued or regressed in his functioning in language and self-care. He is currently not receiving speech therapy or occupational therapy, from which he had previously benefited.

Claimant's parents provided the information below regarding Claimant's functioning. Their testimony was credible.

RECEPTIVE AND EXPRESSIVE LANGUAGE

15. Claimant is supposed to be receiving speech therapy once per week through his school as part of his IEP. Claimant had improved with his prior speech-therapy sessions, but the school does not currently have a speech therapist and private insurance will not cover it. Claimant's speech therapy sessions consisted of both one-on-one sessions and group sessions with other students in speech therapy to help his conversational skills. His progress has plateaued due to not having these services.

16. Claimant exhibits echolalia. In the time he has been without speech therapy, claimant's communication skills have remained scripted, and his progress has plateaued here as well. Due to his echolalia, claimant appears to understand more than he actually does. Additionally, though he reads well above his grade level, his reading comprehension and ability to empathize with or understand stories is below level. For example, he struggles with a story where crayons have feelings and are animated. Claimant has "low scores in breaking down words into syllables."

17. Claimant works with a Resource Specialist two times per week (down from three times per week), and she is also concerned with his receptive language skills. However, claimant has improved to being able to meet with her in class instead of being pulled out for sessions with her.

SELF-CARE

18. Prior to receiving occupational therapy services, claimant had been selective about what he ate; with services, his parents were able to introduce more food into his diet. He has now regressed: he is only willing to eat chicken and rice, and occasionally beef. He refuses to eat at school, and he is vomiting weekly. The school tried having claimant eat in quieter locations to address sensory overload, but claimant has continued to refuse to eat. His ABA therapy plan now includes a food program where they try to reintroduce foods that claimant used to tolerate and then move to newer foods, but there has been no improvement in the last six months. Claimant also does not sit for meals, getting out of his chair and running around between bites.

19. Claimant is unable to dress himself and still gets dressed by his parents. He will hit himself in frustration during the process. Additionally, claimant does not

tolerate certain types of clothing or clothing features, such as long sleeves, tags, zippers, hooded sweatshirts, or hats or similar items on his head.

20. Claimant can shower by himself, although he requires help with cleaning. However, he cannot tolerate the sensation of wet hair, which he tries to pull out.

21. Although there have been no reports of soiling at school, claimant's parents are unsure if claimant is going to the bathroom there. The school reports that he denies needing to use the bathroom when he does need to go. When he does use the bathroom, it is at the last minute. At home, he undresses and sits on the toilet without assistance but needs support from his parents for the rest of the process.

SELF-DIRECTION

22. Claimant pinches himself on his chest and stomach, which may be a form of self-soothing. However, claimant is getting stronger with age and is now leaving bruises on his body. He tries to hide them from his parents.

23. Claimant additionally shows a lack of regard for safety, particularly in public spaces. Claimant will run across a street or away from his parents when in a store, for example. Claimant will also emerge from a public restroom without first getting fully dressed.

24. Another area of concern is claimant's ability to make friends or socialize. In addition to the lack of further progress with his communication and conversational skills, claimant flaps his hands, which the other kids notice. Claimant also paces.

25. Claimant has new goals in his ABA therapies. They include his social skills and working to improve his self-injurious behavior.

Ultimate Factual Findings

26. The evidence established that claimant has autism, is under the age of 18, and has significant functional limitations in the areas of major life activity of self-care and self-direction. Claimant also has limitations, though often masked by his echolalia, in the area of receptive and expressive language. However, even if slowly, claimant has been able to improve in this area of major life activity. At this time, the evidence does not establish significant functional limitations in receptive and expressive language. The evidence does not establish significant functional limitations in mobility or learning.

Capacity for independent living and economic self-sufficiency are generally not considered for a person of claimant's age.

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 Lanterman 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. (*Id.*, §§ 4501, 4502.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including SARC. (*Id.*, § 4620.)

2. To qualify for regional center services, claimant bears the burden of establishing by the preponderance of the evidence that (1) he suffers from a

developmental disability and (2) he is substantially disabled by that developmental disability. (*Id.*, §§ 4501, 4512, subd. (a).)

3. Qualifying "developmental disabilities" under the Lanterman Act include "intellectual disability, cerebral palsy, epilepsy, and autism." (*Id.*, § 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.*) The "developmental disability" must originate before the person turns 18 and must be lifelong. (*Id.*)

4. A qualifying disability must be "substantial," meaning that it causes, as determined by a regional center and appropriate to the person's age, "significant functional limitations in three or more areas of major life activity." (*Id.*, § 4512, subds. (a), (*l*)(1); see also Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).) Those areas are self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (Welf. & Inst. Code, § 4512, subd. (*l*)(1).)

5. Claimant has the eligible condition of autism, is under the age of 18, and his condition is expected to be lifelong. Claimant has significant functional limitations in the two areas of major life activity of self-care and self-direction as he is not eating, cannot dress himself or toilet fully independently, injures himself, and shows a lack of regard for safety. Even though claimant struggles with receptive and expressive language, on this record, he has improved over time and has shown the ability to continue improving with interventions and therapies. At this time, the evidence does not demonstrate a significant functional limitation of major life activities of receptive and expressive language, learning, mobility, capacity for independent living or economic self-sufficiency. Because the evidence established significant functional

limitations in two areas of major life activity (self-care and self-direction), but not three, claimant is not eligible for SARC services at this time.

ORDER

Claimant's appeal is denied.

DATE:

SARA B. TOSDAL
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.