

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0020982

OAH No. 2024100101

DECISION

Jami A. Teagle-Burgos, Presiding Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Bernardino, California, on November 12, 2024.

Senet Teweldebrhan, Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant's father represented claimant, who was present at the hearing.

The record was closed, and the matter submitted for decision on November 12, 2024.

ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) because of a “substantial disability” as a result of intellectual developmental disorder (IDD),¹ autism spectrum disorder (autism), cerebral palsy, epilepsy, or a disabling condition closely related to IDD or that requires treatment similar to that required for individuals with IDD (the “fifth category”)?

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is currently 28 years old, and sought services at regional center. On February 29, 2024, IRC sent claimant a Notice of Action (NOA) stating claimant was not eligible for regional center services because an intake evaluation was completed

¹ The Lanterman Act was amended in 2014 to replace the term “mental retardation” with “intellectual disability,” as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). The most recent revision of DSM, the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR), replaced the term “intellectual disability” with “intellectual developmental disorder” (IDD). The Lanterman Act has been amended to eliminate the term “mental retardation,” however, the California Code of Regulations has not been amended to reflect the currently used terms. Accordingly, for purposes of this decision, IDD, “intellectual disability,” and “mental retardation” have the same meaning.

that showed claimant does not have a “substantial disability” as a result of IDD, autism, cerebral palsy, epilepsy, or the “fifth category.”

2. On March 11, 2024, an informal meeting was held with claimant’s father and IRC, after which, IRC upheld its decision in the NOA that claimant was not eligible for regional center services.

3. On September 27, 2024, IRC received a fair hearing request for claimant that was filed by her father. This hearing followed.

Applicable Diagnostic Criteria

INTELLECTUAL DEVELOPMENTAL DISORDER

4. The DSM-5-TR provides three diagnostic criteria that must be met to support a diagnosis of IDD: deficits in intellectual functions, such as reasoning, problem solving, abstract learning and thinking, judgment, and learning from experience, “confirmed by both clinical assessment and individualized standardized intelligence testing”; deficits in adaptive functioning “that result in failure to meet developmental and sociocultural standards for personal independence and social responsibility”; and the onset of these deficits during the developmental period. Intellectual functioning is typically measured using intelligence tests. Individuals with IDD generally have intelligence quotient (IQ) scores in the 65 to 75 range.

SUBSTANTIAL DISABILITY

5. California Code of Regulations, title 17, sections 54000 and 54001, sets forth the criteria for substantial disability. Under that regulation, in order to have a substantial disability for eligibility purposes, a person must have a significant functional limitation in three or more major life areas, as appropriate for the person’s

age, in the areas of: 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.

6. The Association of Regional Center Agencies (ARCA) published clinical recommendations to be of assistance in making eligibility decisions when considering if a person is substantially disabled within the meaning of applicable law.

7. Regarding self-care, a person should have significant functional limitations in the ability to acquire or perform basic self-care skills such as personal hygiene, grooming, and feeding (chewing and swallowing, eating, drinking, use of utensils).

8. Regarding communication (receptive and expressive language), a person must have significant limitations in both the comprehension and expression of verbal and/or nonverbal communication resulting in functional impairments. There also must be impairment in both receptive and expressive communication, not just one area. Some factors to consider are whether the person has: significant difficulty understanding a simple conversation; needing information to be rephrased to a simpler level in order to enhance understanding; significant difficulty following directions (not due to general noncompliance); significant difficulty understanding and interpreting nonverbal communication (i.e., gestures, facial expressions); significant difficulty communicating information; significant difficulty participating in basic conversations (following rules for conversation and storytelling, tangential speech, fixation on specific topics); atypical speech patterns (jargon, idiosyncratic language, echolalia, significant impairment of the ability to communicate).

9. Regarding learning, a person must be substantially impaired in the ability to acquire and apply knowledge or skills to new situations even with special intervention. Things to consider include: a person's general intellectual ability; academic achievement levels, retention (short and/or long-term memory); and reasoning (the ability to grasp concepts, to perceive cause and effect relationships, ability to generalize information and skills from one situation to another).

10. Regarding mobility, a person must have significant limitations with independent ambulation. Things to consider include: the need for crutches, a walker or wheelchair; gait abnormalities; coordination problems (unable to walk long distances due to fatigue from the significant effort involved in ambulating, difficulty negotiating stairs or uneven ground).

11. Regarding self-direction, a person must have significant impairment in the ability to make and apply personal and social judgements and decisions. Things to consider include: emotional development (routinely has significant difficulty coping with fears, anxieties, or frustrations, severe maladaptive behaviors, such as self-injurious behavior); interpersonal relations (has significant difficulties establishing and maintaining relationships with family or peers, social immaturity, marked difficulty protecting self from exploitation); and personal independence (significant difficulty maintaining daily schedules, responding appropriately in an emergency, taking medications as directed).

12. Regarding capacity for independent living, as age appropriate, a person must be unable to perform age-appropriate independent living skills without the assistance of another person. Things to consider include: significant difficulty performing age-appropriate household tasks; significant difficulty managing domestic activities (grocery shopping, laundry, home repair, etc.); significant need to be

supervised; significant difficulty with money management (using bank accounts, making purchases, and budgeting); and significant difficulty taking the basic steps necessary to obtain appropriate health care (obtaining medication refills, obtaining medical attention when needed).

13. Regarding economic self-sufficiency, as age appropriate, a person must lack the capacity to participate in vocational training or obtain and maintain employment without significant support.

IRC's Evidence

14. The following is a summary of the testimony of Ruth Stacy, Psy.D., and her review of IRC's documentary evidence. Dr. Stacy became a licensed clinical psychologist in 2013 and a staff psychologist at IRC in 2015. She has been a staff member at IRC in various capacities since 1990. At IRC, Dr. Stacy previously was employed as a consumer services coordinator, senior consumer services coordinator, and senior intake counselor. Her duties as staff psychologist include reviewing records and conducting psychological assessments to assist IRC's multidisciplinary eligibility team to determine if potential clients are eligible for services.

15. Dr. Stacy explained the eligibility criteria for regional center services including that an applicant needs: (1) a qualifying diagnosis of IDD, autism, epilepsy, cerebral palsy, or the fifth category; (2) substantial disability due to at least three out of seven areas where there is significant limitation in functioning; and (3) the disability occurred prior to age 18. IDD is a neurodevelopmental disorder where there are significant limitations in cognitive and adaptive functioning that occurred during the developmental period. To make the determination of IDD, cognitive standardized

testing is done along with assessments for adaptive functioning. Eligibility is excluded when there are only psychological and/or physical disabilities.

16. Dr. Stacy reviewed claimant's records and the following is a summary of her review:

17. Claimant's Individualized Education Plan (IEP), when she was in eighth grade, dated October 30, 2009, indicated she qualified for special education under the category of Specific Learning Disability, which is not a qualifying condition for regional center.

18. Claimant's IEP when she was in tenth grade, dated November 30, 2011, indicated she continued to qualify for special education under the category of Specific Learning Disability.

19. Claimant's psychoeducational assessment report when she was in twelfth grade, dated November 6, 2013, was prepared by the school psychologist who administered various tests. Claimant had a low average score (86) on the Test of Nonverbal Intelligence Fourth Edition (TONI-4) test; a borderline range IQ score (87) on the Kaufman Brief Intelligence Test Second Edition (KBIT-2) test; a borderline score (78) in brief achievement, a low average score (80) in brief reading, and a low average score (83) in academic fluency on the Woodcock Johnson Third Edition (WJ-3) test. In processing functioning, claimant had a borderline score in auditory processing (70), a borderline score in memory index (74), and a low average score in visual perceptual skills (87). Dr. Stacy testified that claimant's cognitive ability fell within the low average to borderline range with lesser developed expressive language skills than receptive language skills.

20. Claimant's 2013 psychoeducational assessment referenced claimant's previous testing in 2007. On the Wechsler Intelligence Scale for Children, Fourth Edition (WISC-4) test, she had an extremely low score (65) in perceptual reasoning, a low average score (79) in verbal comprehension, and an average score (97) in processing speed, and an average range full scale IQ (FSIQ) score of 102.

21. Claimant's IEP in twelfth grade, dated November 6, 2013, indicated she continued to qualify for special education services under a category of Specific Learning Disability. She was enrolled in English 12; her writing fluency was at a grade equivalent of 9.9; she was not enrolled in a math class because she completed the math requirement; and her applied math problems score was in the borderline range of 3.8. She was described as quiet but able to communicate her wants and needs.

22. Claimant's IEP Addendum just before her graduation in twelfth grade, dated May 22, 2014, indicated she did not pass the California High School Exit Examination (CAHSEE) in either of the two categories of English/language or math despite having testing accommodations. She was granted a waiver of the requirement to pass the CAHSEE in order to graduate from high school. On the WISC-4 test, claimant had a low processing speed index of 68. Dr. Stacy suggested claimant's history of attention deficit disorder (ADD), as mentioned briefly in her 2013 IEP, could have affected this low score and she was no longer taking medications for ADD causing her to be easily distracted during her testing.

23. Claimant's speech and language evaluation report by a licensed speech therapist, dated June 7, 2023, indicated she had moderate expressive language deficits secondary to a diagnosis of a developmental disorder of speech and language and learning disability; and she had auditory comprehension difficulties, decreased spontaneous speech and attention, and difficulty with generative naming. Dr. Stacy

noted the report stated that claimant drove herself to the appointment and checked herself in for it.

24. On January 23, 2024, a psychological assessment of claimant was conducted by a licensed psychologist at AB Psych Consulting, as a result of a referral by IRC. Claimant was 27 years old at the time. The psychologist reviewed claimant's 2013 psychoeducational assessment and Department of Rehabilitation records where she received vocational services. On the Wechsler Adult Intelligence Scale | Fourth Edition (WAIS-4) test, claimant had a low average score (85) in verbal comprehension, a low score (73) in perceptual reasoning, a low average score (80) in working memory, a low score (74) in processing speed, and she had an FSIQ borderline score of 74 and a general ability index (GAI) low score of 77. Dr. Stacy asserted the GAI score was more accurate concerning the cognitive ability of claimant because it is more aligned with other subtest scores rather than the FSIQ score. Dr. Stacy noted the Adaptive Behavior Assessment System Third Edition (ABAS-3) test was completed by claimant's father and rendered an extremely low score of 54 in global adaptive composite (GAC), and extremely low scores in conceptual composite, social composite, practical composite, communication, community use, functional academics, home living, health and safety, leisure, self-direction, and social. Dr. Stacy remarked that claimant's score seemed abnormally low. The psychologist diagnosed claimant with an unspecified communication disorder, unspecified mood disorder by history, and an unspecified anxiety disorder by history. The psychologist did not find claimant met the diagnostic criteria for IDD; however, he wrote that she "demonstrates significant functional limitations in adaptive functioning" such that he deferred the final determination of her regional center eligibility to IRC's eligibility review team.

25. On November 2, 2023, a social assessment of claimant was conducted on the telephone by an IRC senior intake counselor, as the assessment reported that claimant cannot drive. Dr. Stacy asserted that claimant self-referred herself for the social assessment and this was not typical of a regional center client.

26. Claimant was treated at Southern California Psychiatric Group, Inc., from June 10, 2023, through February 17, 2024. She was diagnosed with generalized anxiety disorder, major depression, and social phobia, generalized. She was found to have ongoing cognitive distortions, fears, worries, difficulty focusing and concentrating, rapid heart palpitations, shortness of breath, stomach discomfort, and difficulty breathing.

27. On February 29, 2024, IRC determined that claimant was not eligible for regional center services as she did not have IDD and she had low average cognitive functioning and academic achievement. Dr. Stacy remarked the IRC eligibility team reported that claimant's "father's ABAS-3 ratings may be an underestimation of [claimant's] true abilities" because claimant applied on her own to IRC, she supplied her own educational records, she independently completed her activities of daily living, and she scheduled her own appointments. Dr. Stacy agreed with the findings of the IRC eligibility team that claimant was not eligible. She noted there was likely a mistake on IRC's determination of ineligibility on February 28, 2024, which states that claimant has ADHD, as claimant does not have ADHD but she has a history of ADD.

28. Claimant received a fully favorable Supplemental Security Income (SSI) decision on August 8, 2024, by the Social Security administration (SSA). SSA retained a psychological consultative examiner to conduct an evaluation of claimant. The psychologist determined that claimant has IDD, an FSIQ score of 67 in the extremely low range, and a disability onset date of April 29, 2014. SSA determined that claimant

could not perform work requiring specific production rates, she could not frequently deal with changes in a routine work setting, and she required reminders from supervisors. Dr. Stacy testified the assessment by Dr. Cooper did not mesh “with the rest of the record including [the January 23, 2024, assessment] and her school records and speech therapy report.”

29. Concerning the fifth category, Dr. Stacy testified that claimant does not have a condition similar to IDD or one that requires treatment similar to that of IDD. Dr. Stacy asserted that claimant’s test scores at age 17 were in the borderline to low-average range, and the January 23, 2024, assessment found claimant’s subtest scores were mostly in the low-average range and her index scores were in the low average range.

Claimant’s Evidence

30. The following is a summary of testimony of claimant’s father and claimant’s supporting documents.

31. Claimant was born in 1996 to a Vietnamese household. She did not speak at all when she was growing up – in either English or Vietnamese. On her first day of kindergarten on September 11, 2001, her teacher asked why she did not speak and her father said this is “how she was growing up.” The teacher referred claimant to speech therapy. In November 2001, claimant’s parents first met with the speech therapist who thought claimant might have been confused because of the two languages. Claimant was given an IEP in kindergarten and thereafter, her parents met with the school once a year to hear about claimant’s progress.

32. Claimant’s father served in the United States Army from 1982 until 1992. He reenlisted in the Air Force Reserves in December 2003 when claimant was seven

years old. Claimant's mother speaks English but it is her third language, and she did not ask for help from the school and did whatever the school recommended for claimant. Claimant's father's duty stations from 2004 to 2014 throughout California required him to have hours-long commutes or to live in other cities because the commute was too far from the family home in Lake Elsinore. He was stationed in Vandenberg, downtown San Diego, and Santa Ana. His final duty stations were in Riverside and Temecula. While in the military, he did not have time to help claimant until he retired from the military in 2014.

33. Claimant graduated from high school in June 2014. She failed the CAHSEE, but "the school decided to let her graduate anyway and walk on the stage." He does not know how she completed her school work because he and his wife never saw her do homework. He has no idea how she got through school. He stated, "She fell through the cracks so to speak."

34. After retiring, claimant's father became a "stay-at-home Dad." He guided claimant in her enrollment at Mt. San Jacinto College, a community college in Menifee, in the fall of 2014. Contrary to the speech therapy report and Dr. Stacy's testimony, claimant's father testified that claimant does not have a driver's license. He drove claimant for the entire semester to her class on Mondays, Wednesdays, and Fridays. He asked her how she was feeling about her class and she told him that she "didn't understand anything in the class." She also told him, "I don't understand the subject." Claimant failed out of college in the first semester because her GPA was 1.0. He did not want to pressure her to continue because she failed not without lack of trying.

35. Claimant's father then enrolled claimant at Planet Youth Program in Lake Elsinore, which is a job training program for young adults who are between the ages of 16 and 21. Claimant was 18 years old when she started job training at Planet Youth

Program. She was assigned a job at Gap, the retail store, but she only lasted a couple of days before the manager called her job counselor to say she could not work there anymore because she was not interacting with customers. Claimant was then assigned a job at Farmer Boys, a restaurant, but she was let go after a few days. Thereafter, claimant's job counselor at Planet Youth Program enrolled her at Volunteer Works Program, a donation center, where she had an unpaid position until she aged out of the program at age 21.

36. Thereafter, claimant's father tried to find other jobs for claimant through Staff Mark, a staffing agency. Claimant had a packaging job that lasted one week and she was told not to return. Her next job was with a phone book packaging company, but she again lasted one day and was sent home because she could not keep up with the work pace. She was then placed at a job in a warehouse in Perris, which is the longest job she held. Claimant's father drove her to the warehouse for her 4:00 a.m. shift, but she was fired after two to three weeks and told to not return. That was in 2019.

37. Claimant's father then enrolled claimant in the EXCEED job training program through the Department of Rehabilitation. She did job training at a pottery program. Claimant's father noticed that claimant "is like a child and has the mind of a child and [she] doesn't interact with adults at all." He remarked that even with their extended family, claimant will only interact somewhat with her younger cousins who are between the ages of five and 10. He stated, "It's like she's a 10-year old child except she is 28 years old."

38. Then the COVID pandemic happened. Claimant's father had a conversation with his cousin who is a social worker in Santa Clara. The cousin knew about claimant's condition, and encouraged claimant's father to apply for SSI for

claimant. He was in denial. He did not want to accept that his child was disabled. In August 2022, claimant's father finally completed an SSI application online for claimant. He disputed Dr. Stacy's testimony by testifying that claimant did not initiate her SSI or regional center applications, as he initiated and completed the applications. He tried to give claimant a sense of independence and let her help with some tasks, but she did not initiate or complete any of her applications because she is not capable.

39. In the process of claimant's SSI application, claimant's father brought claimant to her school district to help her request her special education and IEP records. The district had to retrieve claimant's records from a warehouse. He was surprised to see that she had a psychoeducational assessment in 2013 because he did not know that she underwent this evaluation. It was the first time he saw the report. He testified, "Not once at [the] school district did anyone say that [claimant] needed referrals or other help. Now, here I am 23 years later trying to get help for [claimant] that she never got."

40. Claimant's father also applied for Medi-Cal for claimant because she aged out of his Tricare medical insurance through the military because she was not enrolled in college. He gave claimant's 2013 psychoeducational report to her Medi-Cal doctor who got upset and wanted to know why claimant's father waited that long to get help for claimant. Claimant's Medi-Cal doctor "got the ball rolling" and began to refer claimant to specialists.

41. Claimant was referred to Southern California Psychiatric Group, Inc., where she was first seen in May 2023. The therapist referred claimant to apply for regional center services. Claimant's father stated, "That's how I ended up here at IRC – applying for [claimant]." In response to the 2024 psychological assessment, claimant's

father testified that he did not underestimate claimant's abilities when he told the psychologist about claimant.

42. Claimant's father testified that claimant continues with therapy, every two to three weeks, through her county health services. She also receives speech therapy. He does not know any other 28-year-olds in speech therapy. He remarked that claimant did not drive herself to any of her speech therapy appointments or anywhere else for that matter because she does not have a driver's license. She has twice failed the driver's license test.

43. Claimant's father described claimant's day. She wakes up at the same time as her younger sister. She constantly needs to be reminded to do chores because she forgets to do them. She also forgets how to do the chores. When he tells her to do the dishes or laundry, he has to keep reminding her. She needs "constant supervision." He gave her the responsibility of caring for their cats, but he has to constantly remind her to do the cat chores. She spends time playing video games. She does not interact with anyone outside of their home. Her only friend is her youngest sister who is 13 years old. She shares a room with her youngest sister because her parents do not want her to be isolated. He testified, "She had no friends in high school or at all."

44. Claimant's father stated that claimant has "no direction." He had to "drag her through all of this from after high school, job training . . . I drove her everywhere . . . staffing agency jobs . . . IRC . . . I had to initiate everything for her." He continued, "[Claimant] is going to be my dependent my whole life. She can't live on her own. She is not employable."

45. Finally, claimant's father noted that in August 2024, claimant received a fully favorable decision from SSA wherein she was granted SSI because she was determined to have IDD as of April 29, 2014, when she was 17 years old.

LEGAL CONCLUSIONS

Burden of Proof

1. In a proceeding to determine eligibility, the burden of proof is on the claimant to establish he or she meets the eligibility criteria. The standard of proof is a preponderance of the evidence. (Evid. Code, §§ 115; 500.)

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 to 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.) 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.

3. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq. Welfare and Institutions Code section 4501 provides:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance . . .

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

4. 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.*)

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

(a) “Developmental Disability” means a disability that is attributable to mental retardation, 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;

(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 psychosocial 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.

6. 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.

Appellate Authority

7. The purpose of the Lanterman Act is 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.” (Welf.& Inst. Code, § 4501; *Association of Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

8. The Lanterman Act enumerates legal rights of persons with developmental disabilities. A network of 21 regional centers is responsible for determining eligibility, assessing needs and coordinating and delivering direct services to individuals with developmental disabilities and their families within a defined geographical area. Designed on a service coordination model, the purpose of the regional centers is to “assist persons with developmental disabilities and their families in securing those services and supports which maximize opportunities and choices for living, working, learning, and recreating in the community.” The Department of Developmental Services allocates funds to the centers for operations and the purchasing of services, including funding to purchase community-based services and supports. (*Capitol People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 682-683.)

Evaluation

9. In this case, claimant was diagnosed with IDD by a consultative psychological examiner for SSA, who examined her in 2023. The psychologist found

that claimant had a FSIQ score of 67 with an onset date of disability in April 2014, which is when she was 17 years old. The IDD diagnosis and low FSIQ score are corroborated with the findings of the school psychologist, who evaluated claimant in 2013 when she was 17 years old and found claimant had a low IQ score of 75. Claimant's IEP, at age 17, also noted she had a general education level of 2.7 in "understanding instructions." In addition, the SSI examiner found claimant had marked limitations in concentration and the SSA decision noted she needed extra supervision to stay on task. Moreover, claimant's speech therapist in 2023 reported she had "memory issues." As such, more weight is given to the SSA diagnosis and the above mentioned corroborating evidence, and less weight is afforded to the finding by the psychologist who conducted the IRC-referred assessment and found claimant does not have IDD.

10. Turning to whether claimant has "significant functional limitations," that evaluation did find that claimant had "significant functional limitations in adaptive functioning," but the IRC eligibility team did not agree. However, the psychologist's determination that claimant has significant functional limitations is corroborated by the evidence discussed below.

11. Claimant's learning is substantially impaired as demonstrated by her graduating from high school only after she was granted a waiver to pass the CAHSEE in English/language and math when she was 17 years old. Her academic achievements in high school were low despite special interventions and accommodations discussed in her IEPs. Her applied math problems score of 3.8, at age 17, was in the borderline range. On the WISC-4 test, she had a low processing speed index of 68. She attended community college for one semester at age 18, but failed due to her GPA of 1.0. Her learning deficiencies are further shown by her corroborating statements to her father

that the reason she could not pass her classes at community college was because she did not understand even though she tried.

12. Claimant's communication is substantially impaired because she has limited verbal and communication skills with others, she does not understand directions, and she has difficulty communicating information to others and engaging in basic conversations with others. Her limited verbal skills were referenced in her IEPs from 2007 and 2013. Her speech therapist noted claimant had moderate expressive language deficits secondary to a developmental disorder of speech and language, auditory comprehension difficulties, and decreased spontaneous speech and attention. Moreover, claimant presented at the hearing as very withdrawn and made nearly no eye contact with others in the hearing room. She looked down during most of the more than four-hour hearing at either nothing or her cell phone. She sometimes had confused and crunched facial expressions with her eyes looking sideways or at the ceiling. She said one word during the hearing, which was "no," in response to a question her father asked her, and even then, she did not look at the other participants in the hearing room.

13. Claimant's self-direction is significantly impaired. She has severe difficulties with interpersonal relations, as she has absolutely no friends. Her father testified that claimant has never had friends – not even in high school. She is not able to maintain relationships with others except for her parents and her 13-year-old sister, and she otherwise has no relationship with anyone else. Moreover, at family gatherings, claimant will only interact with children who are about 10 years old and younger, even though she is 28 years old.

14. Claimant's deficiencies persisted as she became a young adult through her present age of 28. She has significant impairments in economic self-sufficiency.

She has not been able to hold a job for more than one to two days, having been fired numerous times due to memory issues, communication difficulties, processing difficulties, and speech. She has been unsuccessful at several job attempts despite participating in job training programs through the Department of Rehabilitation and other vocational programs, and being placed at jobs by a private staffing agency. The longest job she had was for one to two weeks. She has been let go at each job because she is not able to follow instructions, keep up with the required tasks, or communicate with others.

15. Claimant has significant impairment in independent living, as she is not able to perform age-appropriate independent living skills without the help of another. Her father will give her instructions on how to do the laundry, dishes, and cat chores, but when he checks on her, she still has not completed the tasks and he needs to repeat the instructions to her. Her father testified that he needs to constantly supervise and redirect claimant. He stated that claimant will be his dependent forever because she is not capable of living on her own.

16. On this record, a preponderance of the evidence established that claimant is eligible for regional center services as there is sufficient evidence to find that she has a substantial disability due to her diagnosis of IDD established to be present prior to the age of 18, and has significant impairments in learning, communication, self-direction, economic self-sufficiency, and independent living.

ORDER

Claimant's appeal from Inland Regional Center's determination that she is not eligible for regional center services is granted. Inland Regional Center's determination

that claimant is not eligible for regional center services is reversed, and claimant is found to be eligible for regional center services.

DATE: November 26, 2024

JAMI A. TEAGLE-BURGOS

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.