

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0022882

OAH No. 2024120335

DECISION

Kimberly J. Belvedere, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on May 19, 2025, in San Bernardino, California.

Hilberto Echeverria, Jr., Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant's 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 May 19, 2025.

ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the category of cerebral palsy?

FACTUAL FINDINGS

Jurisdictional Matters

1. Claimant is a 14-year-old boy with a diagnosis of cerebral palsy. Medical records submitted by claimant's mother confirm as much, and IRC does not dispute that diagnosis.

2. Claimant received services from IRC pursuant to the California Early Intervention Services Act (Gov. Code, § 95000 et seq.) when claimant was an infant (between approximately 2010 and 2013), but when he turned three years old, those services terminated and he was never determined to be eligible for services under the Lanterman Act.

3. Sometime prior to December 2024, claimant sought services under the Lanterman Act based on his diagnosis of cerebral palsy.

4. On December 2, 2024, an IRC multidisciplinary team comprised of a psychologist, a medical doctor, and a Program Manager reviewed claimant for eligibility and determined that, while he did have a diagnosis of mild spastic diplegic cerebral palsy, he did not have a substantial disability as a result of that condition or

any other qualifying condition. IRC issued a Notice of Action letter on December 4, 2024, notifying claimant of its determination.

5. On December 9, 2024, claimant's mother filed a fair hearing request challenging IRC's denial.

6. On December 19, 2024, the parties held an informal meeting to discuss the matter. Following the meeting, IRC adhered to its determination that claimant was not eligible for regional center services.

7. Between December 19, 2024, and May 14, 2025, claimant provided additional records to IRC. IRC's multidisciplinary team met again on May 14, 2025, and again determined claimant was not eligible for regional center services. More specifically, the May 14, 2025, review found that there was no evidence that cerebral palsy is causing significant functional limitations in three or more areas of a major life activity as required for Lanterman Act eligibility. This hearing followed.

Cerebral Palsy and Substantial Disability

CEREBRAL PALSY

8. Cerebral palsy is a brain disorder that appears in infancy or early childhood and permanently affects body movement and muscle coordination. Cerebral palsy is caused by changes in the developing brain that disrupt its ability to control movement and maintain posture and balance. The hallmark symptom of cerebral palsy is problems with movement and posture. Symptoms and how serious they are vary person to person. There is a wide variety of symptoms that manifest in persons with cerebral palsy, and the following are examples of those symptoms: lack of muscle coordination when performing voluntary movements (ataxia); stiff or tight muscles and

exaggerated reflexes (spasticity); weakness in one or more arm or leg; unusual walking style (gait)—including walking on the toes, a crouched gait, or a “scissored” gait; stiff or floppy muscle tone; tremor or random involuntary movements (dystonia); delays in reaching movement milestones; and difficulty with precise movements (fine motor skills) such as writing or buttoning a shirt. Cerebral palsy is diagnosed in a number of ways, including developmental monitoring, developmental screening, and medical evaluations throughout the developmental years. There is no cure for cerebral palsy, but interventions can help with quality of life.

SUBSTANTIAL DISABILITY

9. Substantial disability is defined in California Code of Regulations, title 17, sections 54000 and 54001. Also taken into consideration when determining whether a person has a substantial disability are the Association of Regional Center Agencies guidelines (ARCA Guidelines).¹ Substantial disability does not mean any difficulty, or even that a person struggles with certain tasks. Rather, the person has significant functional limitations 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.

¹ Of note, the ARCA Guidelines have not gone through the formal scrutiny required to become a regulation. Thus, while they are used to help guide professionals in evaluating whether a person has a substantial disability, they are not entitled to be given the same weight as regulations.

Expert Testimony and Summary of Pertinent Records

10. Desiree Nycholat, M.D., is part of the eligibility team at IRC that evaluates individuals for epilepsy and cerebral palsy. Dr. Nycholat has been a consulting physician for IRC for seven and a half years. Dr. Nycholat obtained her Doctor of Medicine degree from, and completed her pediatric residency at, Loma Linda University School of Medicine. Dr. Nycholat has been licensed since 2015 and is board-certified in pediatrics. She specializes in caring for children from birth to age 18. Dr. Nycholat is currently an attending physician and part of the faculty at Loma Linda University Faculty Medical Group. Dr. Nycholat is an expert in pediatrics and in determining whether a person with cerebral palsy is eligible for regional center services.

11. Dr. Nycholat testified at hearing regarding the basis for her opinion that claimant was not eligible for regional center services based on cerebral palsy. In order to make her determination, Dr. Nycholat reviewed the documentary evidence admitted at hearing, which included claimant's history with IRC and medical records. Dr. Nycholat acknowledged that claimant had been diagnosed with cerebral palsy, but found claimant does not meet the criteria for a substantial disability because he does not have significant deficiencies in three or more areas of daily functioning.

12. Dr. Nycholat explained that cerebral palsy is a group of neurological disorders that appear in early childhood, and affect the part of the brain that controls muscle movements, coordination and balance, etc. The level of severity varies, depending on where the brain is affected. In order to diagnose cerebral palsy, a doctor considers examination findings, medical history, tone of muscles, history of delay, and sometimes, brain imaging. With respect to claimant specifically, Dr. Nycholat testified that claimant had a right-sided brain bleed shortly after birth, which resulted in his

admission to the neonatal intensive care unit (NICU). Claimant was born very early, at only 24 weeks, and he remained in the NICU for a long time. His twin died. As claimant got older, his parents noticed he walked on his toes a lot and had a tightness in his heels, making walking difficult. Substantial medical records were provided, and document things like “mild” evidence of lower extremity spasticity, trouble swallowing, dysphasia, and other muscular challenges.

13. Claimant does receive special education services and has an Individualized Education Program (IEP). According to the IEP, claimant receives special education services not for “other health impairment,” which is what would be expected with cerebral palsy, but instead receives special education services under speech and language impairment. The IEP documents that claimant was found to have a vocal cord that was paralyzed in his infancy. Throughout his IEPs, the challenges are noted in language, not mobility, but show claimant can write, participate in activities with his peers, and can speak with mild articulation errors. The IEPs also document that claimant gets along with both peers and adults, can access school technology, can address his daily living skills and adaptive needs at school independently, and responds well to interventions designed to help him with his speech. Claimant functions at grade level expectations, and is a friendly student who is motivated to do well in class.

14. Claimant’s most recent IEP describes claimant as organized, attentive, self-motivated, eager to participate in discussions, and frequently volunteers to share his insights. Claimant’s communication development is described as age-appropriate in voice, fluency, semantics, and syntax. Claimant is well respected by his peers and can care for himself at an age-appropriate level.

15. Notably, the most recent medical records in claimant's documents from an August 2024 visit to the hospital do not show any concerns regarding significant functional limitations in any area.

16. Dr. Nycholat pointed out that despite the challenges noted in claimant's records over the years, many were resolved or addressed with appropriate medical and/or therapeutic interventions. Further, she noted that not all children with cerebral palsy have significant functional limitations, and the records document claimant's cerebral palsy is only at "Level 1," meaning, it is very mild. Accordingly, the records do not demonstrate that claimant has significant functional limitations in three or more areas of a major life activity, and he is not eligible for regional center services.

Claimant's Mother's Testimony

17. Claimant's mother's testimony is summarized as follows: Claimant was born premature and had many medical issues throughout his life. Claimant was part of a set of twins, and she lost her other child. Claimant's mother said claimant cannot do physical activities, still walks on his toes, falls a lot, and has issues with his speech because of a paralyzed vocal cord. Claimant is social, has friends, and does not have issues with his peers, but at home he mostly stays in his room. Claimant does have a prosthesis (leg braces) but he will not wear them at school. Claimant gets speech therapy at school but claimant's mother does not feel like it is helping. Claimant received occupational therapy when he was younger, but he has not received that in a long time. California Children's Services (CCS) provides physical therapy to help claimant with tightness in his heel cords. The main reason she came to IRC was because the CCS recommended the family seek IRC's help. Claimant has always been followed by different specialists throughout the years and is now 14 years old. She had good insurance coverage that covered all the specialists over the years but when she

transitioned to private insurance, they do not cover most things. Now she has no coverage.

LEGAL CONCLUSIONS

Applicable Law

1. The Legislature enacted the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) to provide an array 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.)

2. 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 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.)

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 [intellectual developmental disorder], cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to [intellectual developmental disorder] or to require treatment similar to that required for individuals with [intellectual developmental disorder].

(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 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 [intellectual developmental disorder].

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.

7. 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.)

Conclusion

8. A preponderance of the evidence established that claimant has a diagnosis of mild spastic diplegic cerebral palsy, but did not establish that he has significant functional limitations in receptive and expressive language, learning, self-care, mobility, or self-direction (the areas of major life activities applicable to a 14 year old). Although claimant does have some difficulties with his speech due to a paralyzed vocal cord present since his youth, the IEPs do not show that it is substantially interfering with his ability to excel in school, interact with his peers, and participate in age-appropriate activities. Dr. Nycholat testified that claimant is not eligible for regional center services because his cerebral palsy is mild, and does not meet the

substantial disability requirement. The medical records support Dr. Nycholat's opinion, and no expert testimony contradicted her conclusion.

9. Accordingly, claimant did not establish by a preponderance of the evidence that he is eligible for regional center services under any qualifying category, and claimant's appeal is denied.

ORDER

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

DATE: June 2, 2025

KIMBERLY J. BELVEDERE

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 Welfare and Institutions Code section 4713, subdivision (b), 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.