

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0022979

OAH No. 2024120601

DECISION

Michelle C. Hollimon, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on January 29, 2025, in San Bernardino, California.

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

Adrianna Vermilion, director of Guiding Light Home for Boys (Guiding Light), appeared on behalf of claimant, who was present.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on January 29, 2025.

ISSUE

Is claimant eligible for regional center services pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the category of autism spectrum disorder (autism), intellectual developmental disorder (IDD),¹ or a condition that is closely related to IDD or requires treatment similar to a person with IDD (fifth category)?

FACTUAL FINDINGS

Background and Jurisdictional Matters

1. Claimant is an 18-year-old boy who lives at Guiding Light, a short-term residential therapeutic program located in Moreno Valley, California. Claimant has resided at Guiding Light since October 2023.

¹ The Lanterman Act was previously amended to eliminate the term “mental retardation” and replace it with “intellectual disability,” as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). The more current DSM-5, text revision (DSM-5-TR) no longer uses the term “intellectual disability” and instead refers to the condition as IDD. Many of the regional center forms and the California Code of Regulations have not been updated to reflect this change. Accordingly, for purposes of this decision, “mental retardation,” “intellectual disability,” and “IDD” mean the same thing.

2. On November 30, 2023, an initial intake application was submitted to IRC on behalf of claimant for an assessment of regional center eligibility.

3. In June and July 2024, an IRC multidisciplinary team comprised of a psychologist, medical doctor, and a senior intake counselor reviewed claimant for eligibility and determined that the records reviewed did not show claimant had a substantial disability as a result of autism, IDD, cerebral palsy, epilepsy, or the fifth category.

4. On July 8, 2024, IRC issued a Notice of Action (NOA). The NOA set forth the determination by IRC that claimant was not eligible for regional center services because he did not have a “substantial disability” as a result of autism, IDD, cerebral palsy, epilepsy, or the fifth category, as defined by the Lanterman Act.

5. On December 12, 2024, claimant’s representative filed an appeal. This hearing followed.

Applicable Diagnostic Criteria

AUTISM

6. The American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR) identifies criteria for the diagnosis of autism spectrum disorder. The diagnostic criteria include persistent deficits in social communication and social interaction across multiple contexts; restricted repetitive and stereotyped patterns of behavior, interests, or activities; symptoms that are present in the early developmental period; symptoms that cause clinically significant impairment in social, occupational, or other important areas of function; and disturbances that are not better explained by intellectual disability or

global developmental delay. An individual must have a DSM-5-TR diagnosis of autism spectrum disorder to qualify for regional center services based on autism.

IDD

7. The DSM-5-TR contains the diagnostic criteria used for IDD. The essential features of IDD are deficits in general mental abilities and impairment in everyday adaptive functioning, as compared to an individual's age, gender, and socioculturally matched peers. Intellectual functioning is typically measured using intelligence tests. Individuals with IDD typically have intelligence quotient (IQ) scores in the 65-75 range. In order to have a DSM-5-TR diagnosis of IDD, three diagnostic criteria must be met. The DSM-5-TR states in pertinent part as follows:

[IDD] is a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. The following three criteria must be met:

A. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing.

B. Deficits in adaptive functioning that result in failure to meet developmental and sociocultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication,

social participation, and independent living, across multiple environments, such as home, school, work, and community.

C. Onset of intellectual and adaptive deficits during the developmental period.

FIFTH CATEGORY

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

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

Of note, the ARCA guidelines have not gone through the formal scrutiny required to become a regulation and were written before the DSM-5-TR was in effect and are not entitled to be given the same weight as regulations. In those guidelines, ARCA noted that eligibility for regional center services under the fifth category required a “determination as to whether an individual functions in a manner that is similar to that of a person with mental retardation or requires treatment similar to that required by individuals with mental retardation.” The guidelines stated that *Mason* clarified that the Legislative intent was to defer to the professionals of the regional center eligibility team to make the decision on eligibility after considering information obtained through the assessment process. The guidelines listed the factors to be considered when determining eligibility under the fifth category.

Functioning Similar to a Person with IDD

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

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

Treatment Similar to a Person with IDD

10. In determining whether a person requires treatment similar to a person with IDD, a regional center should consider the nature of training and intervention that is most appropriate for the individual who has global cognitive deficits. This includes consideration of the following: individuals demonstrating performance based deficits often need treatment to increase motivation rather than training to develop skills; individuals with skill deficits secondary to sociocultural deprivation but not secondary to intellectual limitations need short-term, remedial training, which is not similar to that required by persons with IDD; persons requiring rehabilitation may be eligible, but persons primarily requiring rehabilitation are not typically eligible as the term rehabilitation implies recovery; individuals who require long-term training with steps broken down into small, discrete units taught through repetition may be eligible; and the type of educational supports needed to assist children with learning (generally, children with IDD need more supports, with modifications across many skill areas).

Testimony of Sandra Brooks, Ph.D., and Pertinent Records

11. Sandra Brooks, Ph.D., is a licensed clinical psychologist. She obtained her Ph.D. in clinical psychology in 2006 from Loma Linda University. She also has a Bachelor of Arts in English and Psychology and a Master of Science in Experimental Psychology. Dr. Brooks has been a staff psychologist at IRC since 2010, where she specializes in the assessment and diagnosis of persons for the purpose of determining eligibility for regional center services. Prior to that, she served as a psychological assistant at IRC from 2007 to 2009. Prior to serving as a psychological assistant at IRC, Dr. Brooks served in multiple positions across the country. She has been involved with many professional presentations in the field of psychology and attended countless trainings and workshops in her field. Dr. Brooks is an expert in the assessment of individuals for regional center services. The following is a summary of Dr. Brooks's testimony and pertinent records.

12. Dr. Brooks reviewed claimant's records, including multiple Individualized Education Program plans (IEPs), a December 2023 psycho-educational assessment report completed as part of claimant's triennial review for special education services through the Chino Valley Unified School District, a May 2024 psychological evaluation by Julie Sanchez, PsyD., to whom claimant was referred as part of IRC's eligibility determination process, and a neurodevelopmental evaluation by the Inland Empire Autism Assessment Center of Excellence, completed in December 2024.

13. Dr. Brooks testified that claimant's records do not show claimant has a developmental disability that makes him eligible for regional center services under the Lanterman Act. She addressed the eligibility criteria for regional center services under the Lanterman Act, and the criteria for eligibility under the fifth category. Dr. Brooks noted to qualify for regional center services an individual must have one of those

qualifying diagnoses and significant functional limitations in three or more areas of a major life activity. She added that some conditions are precluded from regional center eligibility, such as conditions that are solely psychiatric, or learning disabilities.

14. In assessing claimant's eligibility for regional center services, Dr. Brooks followed the criteria for eligibility for autism and IDD under the DSM-5-TR. An individual must have a DSM-5-TR diagnosis of autism or IDD to qualify for regional center services based on autism or IDD under the Lanterman Act.

15. Records from the West End Special Education Local Plan Area show claimant began receiving special education services in November 2013, when claimant was seven years old. All IEPs since 2013 were not provided, however; only IEPs from April 2021, August 2022, and August 2023, along with various amendments that were made to the IEPs, were provided.

16. The April 2021, August 2022 and August 2023 IEPs provided all indicate that claimant was eligible for special education services due to specific learning disability (SLD), with no secondary disability noted. SLD does not qualify a person for regional center services.

17. On December 13, 2023, a confidential psycho-educational assessment report (December 2023 assessment report) through the Chino Valley Unified School District was completed. Claimant was 17 years old when he was evaluated. The psycho-educational assessment was completed as part of claimant's triennial review. The results of the assessment were provided to the IEP team to discuss in conjunction with claimant's present levels of functioning and educational needs.

18. With respect to recommendations for the IEP team, the December 2023 assessment report recommended that claimant "meets the eligibility criteria ... under

the state criteria for Emotional Disturbance and Intellectual Disability.” The basis for this recommendation was as follows:

Upon review, [claimant] is struggling with anxiety, depression, and withdrawal; clearly documented across the myriad of parent and teacher behavior rating scales used in this evaluation: including the CDI, BASC, and SAED. Each noting localized concerns with language processing, task completion, and class participation. That coupled with a significant psychological disorder [claimant] is lacking the strength, vitality, and alertness to remain engaged in the learning process ...

19. On December 13, 2023, claimant’s school completed an IEP addendum modifying claimant’s qualifying conditions to reflect intellectual disability as his primary disability, with a secondary disability of emotional disturbance. Emotional disturbance is a mental health diagnosis and does not qualify a person for regional center services under the Lanterman Act. Further, when a school finds a person eligible for IDD, they do so using the criteria set forth in Title 5 of the California Code of Regulations, not the more stringent criteria set forth in the Lanterman Act.

20. On May 13, 2024, and May 14, 2024, a psychological evaluation was performed by Dr. Julie Sanchez, PsyD. Claimant was 18 years old at the time of the evaluation. Per her evaluation report, claimant was referred to Dr. Sanchez to “determine IRC eligibility due to concerns about Autism Spectrum Disorder and Intellectual Disability.” Dr. Sanchez spoke with claimant’s representative, reviewed records of claimant, interviewed claimant, and employed various standardized assessment measures to evaluate claimant.

21. The Wechsler Nonverbal Scale of Ability was used by Dr. Sanchez to measure claimant's cognitive functioning. The test provides a full-scale IQ composite score made up of four subtest scores. Claimant performed in the borderline range on tasks that measured graphomotor and attention skills as well as sequencing and recognizing social relationship cues. Test results measuring areas such as short-term, working memory were in the low average range. Claimant's performance on assessments measuring his problem solving and abstract reasoning were in the average range. Claimant's overall composite IQ score was 82, which places claimant in the low average range. A person with IDD typically has an IQ well below 82.

22. The Adaptive Behavior Assessment System, Third Edition (ABAS-III) was used to assess claimant's adaptive behavior and skills. The ABAS-III provides a General Adaptive Composite score and standard scores for three areas of adaptive functioning—conceptual, social and practical. Per Dr. Sanchez's report, claimant's overall level of adaptive behavior fell into the extremely low range.

23. The Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), Module 4 was used to assist in measuring for possible characteristics of autism spectrum disorder. Claimant's overall score of 7 was found to be "consistent with an ADOS-2 Classification of Autism Spectrum." The Autism Spectrum Rating Scales (ASRS) were also used in assessing claimant, with his total score of 62 placing him in the slightly elevated range. Claimant's "pattern of scores indicates that he has some symptoms directly related to the DSM-5 diagnostic criteria" and that he shows a few "associated features characteristic of Autism Spectrum Disorder."

24. Dr. Sanchez ultimately concluded that claimant met the criteria for a language disorder, but did not meet the criteria for autism or IDD.

25. With respect to autism, Dr. Sanchez noted that while the results of the ASRS indicated some deficient areas and the results of the ADOS-2 indicated an autism spectrum classification, most of claimant's deficits were with social skills and communication, "which seemed to be more related to his mental health difficulties, rather than characteristic features of ASD." Dr. Sanchez noted that when she directly observed claimant, he smiled, made good eye contact and "did not evidence any odd behaviors." Dr. Sanchez did not observe any "restricted, repetitive patterns of behavior, interests or activities," nor were any reported.

26. With respect to IDD, Dr. Sanchez stated that claimant did not meet the IDD criteria as his cognitive scores fall into the low average range.

27. On December 17, 2024, and December 18, 2024, a neurodevelopmental evaluation of claimant was completed by the Inland Empire Autism Assessment Center of Excellence (IEAACE). IEAACE's evaluation procedures included interviewing claimant's representative and having her complete various assessments, reviewing records of claimant, various specialty medical exams of claimant, and informal behavioral observation of claimant. Claimant was seen by a child neurologist, pediatric neuropsychologist, post-doctoral psychology fellow, speech and language pathologist, and an occupational therapist as part of the IEAACE evaluation.

28. With respect to autism, the IEAACE evaluation found that claimant did not meet the criteria for autism. Claimant did not engage in repetitive behaviors or have restricted interests. Claimant's social deficits were "better explained" by "cognitive weaknesses ... extensive trauma history ... language disorder, and mental health concerns." Dr. Brooks pointed out that in the IEAACE evaluation, claimant demonstrated "minimal autistic characteristics" when compared to others his age and language level.

29. Claimant was found to test better in motor and visual-perceptual areas and worse in language processing and expression. Claimant was also found to have difficulty processing and responding to information, and having “weak auditory working memory, thus poor cognitive efficiency overall.” The Wechsler Nonverbal Scale of Ability was used by Dr. Agakhanyan and Dr. Cao, part of the IEAACE team, to measure claimant’s cognitive functioning. Claimant’s overall composite IQ score was 74. As was the case when Dr. Sanchez performed this same assessment in May 2024, claimant displayed varied cognitive abilities. Claimant demonstrated some strengths in perceptual reasoning, cognitive processing speed, nonverbal reasoning and spatial processing. Claimant scored very low in other areas, placing only at the 1st percentile in working memory and difficulties with verbal comprehension and completing timed tasks.

30. Dr. Brooks testified that the IEAACE evaluation found that while claimant does have cognitive impairments, he is not impaired to such a degree that he qualified for a diagnosis of IDD. Dr. Brooks testified that the variable IQ scores that make up the full-scale IQ composite score and claimant’s low adaptive functioning are not enough for a diagnosis of IDD. Dr. Brooks testified that claimant’s pattern of scores is not suggestive of IDD.

31. With respect to the fifth category, Dr. Brooks testified that claimant does not qualify for services under this category. Dr. Brooks testified that most of claimant’s deficits are relating primarily to psychiatric issues. Conditions that are solely psychiatric do not qualify for Lanterman Act services. Claimant has been diagnosed with schizophrenia, which does not qualify for IRC services.

32. Dr. Brooks further testified that claimant’s substance abuse can cause impairments in cognitive functioning. Dr. Brooks pointed to claimant’s grades,

describing his decline in performance as more recent, and that such performance is not suggestive of IDD (but is suggestive of someone with a mental health condition like schizophrenia). Dr. Brooks stated the type of treatment for someone with IDD would not be appropriate for claimant, but rather the more appropriate treatment would be mental health services.

33. The various findings by IEAACE, per the IEAACE evaluation, "explain why there is cognitive variability and not necessarily impaired enough for a diagnosis of Intellectual Disability..." The IEACCE team found claimant to fall more in the category of borderline intellectual functioning, which is inconsistent with IDD.

34. The IEAACE evaluation noted that claimant does show some symptoms of a possible neurocognitive disorder related to previously reported head trauma as a result of child abuse. The evaluation states:

This diagnosis cannot be made at this time due to lack of baseline functioning (to measure decline), confluence of substance abuse, and requirement of additional formal testing. Clinical correlation of head imaging in recent years does not indicate structural abnormalities

The evaluation provided that neurocognitive disorder should be monitored going forward.

35. The active diagnoses of the IEAACE evaluation were: 1) borderline intellectual functioning; 2) mixed receptive expressive language disorder; 3) unspecified mood disorder; and 4) substance abuse (marijuana, nicotine). Dr. Brooks testified that none of these diagnoses qualify claimant for Lanterman Act services.

36. Dr. Brooks's opinions regarding claimant's eligibility for regional center services are found persuasive and well-supported in the record.

Testimony of Adrianna Vermilion

37. Adrianna Vermilion is a licensed marriage and family therapist, has been licensed for 21 years, and has worked primarily with children and adolescents during her career. She is the director of Guiding Light, where claimant has resided since October 2023. As claimant's representative, she is appealing IRC's eligibility determination with respect to IDD and the fifth category. As a clinician, she does not necessarily think that autism is a correct diagnosis for claimant, but believes he qualifies for services under IDD or fifth category. Ms. Vermilion acknowledged that both Dr. Sanchez and the IEAACE team did not diagnose claimant with autism.

38. Ms. Vermilion understands that "where we are stuck" is claimant qualifying under one of the five Lanterman Act categories. Ms. Vermilion testified that she believes claimant does qualify for IRC services. Claimant has developmental disabilities that were in effect before age 18. He has had issues with school since an early age, not just later in his school career. Claimant has been receiving special education services since age seven. All IEP records were requested, but those before 2021 were not received.

39. Ms. Vermilion noted that the assessments of claimant show he has very low adaptive functioning. The IQ score components are "all over the place" and claimant has huge deficits in certain areas. The areas in which he tested higher are not necessarily the areas where IRC's support is needed. Further, during testing, claimant was prompted to get responses. Claimant may be able to eventually figure out an

answer, but she is unsure to what degree. The prompting of responses skews the test results.

40. Ms. Vermilion testified that multiple clinicians, including herself, have disputed claimant's prior diagnosis of schizophrenia. Claimant's diagnosis came before an age when that diagnosis can be made, and only his psychiatrist has made this diagnosis. Ms. Vermilion further testified that all medication prescribed before age 18 for foster children must be approved by the court. Claimant's medication regime would be interrupted if his diagnoses changed. Diagnoses are molded to allow for medication prescriptions—if you want a patient to have a certain medication, it must be a certain diagnosis.

41. Ms. Vermilion believes that a lot of claimant's psychosis is brought on by substance use. Claimant does not have a "standard" response to drugs. When claimant uses marijuana, he hears voices, is extremely irritable, has punched holes in walls and turned tables over at school. Ms. Vermilion testified that claimant still has deficits when substance abuse is not a factor and that a lot of claimant's deficits are not solely psychological or due to substance abuse.

42. Ms. Vermilion is concerned about claimant's ability to function as an adult. Claimant needs help with daily functioning, such as waking up. It is debatable whether he could use the bus to go to work every day, as unforeseen issues such as missing his stop, could be problematic. Claimant hasn't demonstrated an ability to manage money, hold a job that could support him or pass the state driving test. He could not pay bills. He cannot follow multistep directions. When claimant ages out of foster care, he will be "left with nothing" if he does not have IRC services.

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 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.

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. No evidence was presented, nor was it claimed, that claimant was eligible for regional center services under the categories of epilepsy or cerebral palsy.

9. Regarding autism, Dr. Sanchez conducted a comprehensive psychological assessment that included the ADOS-2, as did IEAACE. Both assessments ultimately concluded that claimant did not meet the diagnostic criteria for autism. Further, based on the observations of the various psychologists who administered the different psychological assessments, claimant did not show the behaviors typical of someone with autism. Claimant did not engage in repetitive behaviors or have restricted interests. Claimant's social deficits appeared to be due to other factors, with both assessments correlating them more with mental health concerns. Dr. Brooks is an expert on rendering opinions regarding an individual's eligibility for regional center services, and she reviewed all documents in this case and concluded the evidence did not show claimant meets the DSM-5-TR criteria for autism and the IRC multidisciplinary team's determination that claimant is not eligible for regional center services was correct.

10. Similarly, although claimant may have some academic or cognitive challenges, he does not meet the DSM-5-TR criteria for IDD and does not meet the criteria for eligibility under the fifth category. Claimant's full-scale IQ is higher than what would normally be expected for someone with IDD or a condition similar to IDD. No evidence established that claimant requires treatment for IDD or a condition similar to a person with IDD. This conclusion was supported by the documentary evidence and testimony of Dr. Brooks, IRC's expert.

11. Notably, most of the records provided dated back only to 2021 when claimant was already a teenager; although the IEPs did indicate he received special education since age seven, none of those early records were provided. Even if they were, it does not appear they would make a difference given that claimant was not served under any condition that would qualify him for regional center services.

12. Finally, although claimant does have adaptive challenges, those challenges are likely attributable to his mental health conditions (emotional disturbance and schizophrenia), as well as his substance abuse, which can also affect cognitive functioning. Further, even if these adaptive challenges were substantially disabling in three or more areas of a major life activity, as required for eligibility under the Lanterman Act, claimant's challenges are not attributable to any qualifying developmental disability.

13. 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 intellectual development disorder, or a condition that requires treatment similar to a person with intellectual developmental disorder.

DATE: February 11, 2025

MICHELLE C. HOLLIMON

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.