

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

**In the Matter of:**

**CLAIMANT**

**and**

**ALTA CALIFORNIA REGIONAL CENTER,**

**Service Agency.**

**DDS No. CS0022936**

**OAH No. 2024120655**

**DECISION**

A fair hearing was held on January 23, 2025, before Timothy J. Aspinwall, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, at Alta California Regional Center (ACRC) in Sacramento, California.

Claimant was represented by his mother. The names of Claimant and his mother are omitted to protect their privacy and confidentiality.

The Service Agency, ACRC, was represented by Robin M. Black, Legal Services Manager.

Evidence was received, the record was closed, and the parties submitted the matter for decision on January 23, 2025.

## **ISSUE**

Is ACRC required to pay for a new psychological evaluation of claimant to reassess him for autism?

## **FACTUAL FINDINGS**

### **Jurisdiction and Background**

1. ACRC provides funding for services and supports to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act) and other related laws. (Welf. & Inst. Code, § 4500 et seq.) (All statutory references are to the Welfare and Institutions Code, unless otherwise specified.)

2. Claimant is eight years of age. He is eligible for ACRC services under the Lanterman Act based on a diagnosis of unspecified intellectual disability. He resides with his mother and two siblings in the family home in Sacramento, California.

3. Claimant's mother requested that ACRC pay for a new psychological evaluation to reassess Claimant for autism, following a 2024 psychological assessment funded by ACRC that found Claimant does not have autism. ACRC denied the request. Claimant timely filed a fair hearing request, by which he appealed ACRC's denial. This hearing followed.

## **ACRC's Evidence**

### **DOCUMENTARY EVIDENCE**

4. ACRC submitted documentary evidence. With respect to the issue of whether ACRC should be required to fund another psychological evaluation to reassess Claimant for autism, the most significant documents are clinical chart notes by Claimant's treating neurologist, a psychoeducational study conducted by a school psychologist, and a psychological assessment conducted by a clinical psychologist at the request of ACRC. Each is discussed below.

5. Claimant's treating neurologist, Shailesh Asaika, M.D., saw him with his mother for an initial neurological consultation on August 24, 2022. Claimant was then five years of age. Dr. Asaika noted Claimant's mental status as alert, interactive, and hyperactive and observed Claimant self talks, seems to be in a world of his own, and has variable eye contact. Dr. Asaika listed diagnoses in the chart note, including attention deficit and hyperactivity disorder (ADHD) and schizoaffective behaviors. Dr. Asaika saw Claimant and his mother again on December 5, 2022. He noted Claimant's mental status as alert, interactive, hyperactive, and autistic, and observed Claimant self talks, seems to be in a world of his own, has variable eye contact. He listed diagnoses including ADHD, schizoaffective behaviors, autism, and obsessive-compulsive disorder.

6. The documents submitted by ACRC also include a psychoeducational study of Claimant conducted by a school psychologist for the Sacramento City Unified School District, Special Education Department. The period of evaluation was February to March 2023. The school psychologist, Sugeili Jauregui, M.S., administered tests including the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2),

Module 3, and the Autism Spectrum Rating Scale (ASRS). The ADOS-2 evaluation includes Ms. Jauregui's observations of Claimant. The ASRS includes observations of Claimant by his mother and teacher. With respect to the ASRS, Ms. Jauregui wrote that Claimant's mother and teacher both reported behaviors showing a "very elevated" range of behaviors associated with autism. On the ADOS-2, Ms. Jauregui scored Claimant at "9" based on his social affect. The autism spectrum cutoff is "7," and the autism cutoff is "9." Ms. Jauregui wrote that Claimant's score demonstrates a moderate level of autism.

7. A clinical psychologist, Morgen Aita, Ph.D., assessed Claimant on February 7, 2024, at the request of ACRC. Dr. Aita administered tests including the ADOS-2, Module 3, and the Childhood Autism Rating Scale, High Functioning Version (CARS 2-HF). On the ADOS-2, Dr. Aita scored Claimant at a "3" based on his social affect. Given the autism spectrum cutoff of "7," and the autism cutoff of "9," Dr. Aita wrote that Claimant's performance on the ADOS-2, Module 3, "was not consistent with an ADOS-2 Classification of Autism." The CARS 2-HF is designed to identify children with Autism Spectrum Disorder (ASD), and to distinguish them from those with developmental disabilities. Based on Claimant's scores in the fifth percentile for autism, Dr. Aita wrote that Claimant showed "Minimal-to-No symptoms of Autism Spectrum Disorder." Based on Claimant's scores and other available information, Dr. Aita found that Claimant did not meet any of the criteria for a diagnosis of ASD under the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5TR). Dr. Aita diagnosed Claimant under the DSM-5TR criteria with ADHD, Unspecified, Expressive Language Disorder, Oppositional Defiant Disorder, and Anxiety Disorder, Unspecified.

## **TESTIMONY OF CYNTHIA ROOT, PH.D.**

8. Dr. Root has been employed as the lead staff psychologist at ACRC since 2023 and previously served as a staff psychologist at ACRC from 2008 to 2023. Dr. Root has been licensed as a psychologist in California since 2008. She specializes in differential diagnosis between autism and mental health issues and in diagnosing intellectual development disorders. From 2016 through 2022, she served as the chair of a group of psychologists who serve approximately 70 regional centers throughout California and meet three times each year to discuss standards in the fields of autism and intellectual developmental disorders. Dr. Root's responsibilities at ACRC include performing and interpreting psychological assessments for autism and intellectual disability.

9. In March 2024, Dr. Root participated on the eligibility team that found Claimant eligible for ACRC services based on Intellectual Disability, Unspecified. The eligibility team considered but did not find that respondent has autism. The eligibility team considered Dr. Aita's assessment in the finding that Claimant does not have autism.

10. Dr. Root reviewed the documents submitted by ACRC and Claimant. Based on her review, she believes that Claimant's presentation is more consistent with ADHD and language issues than autism. She acknowledged there is "a lot of cross-over" in the symptoms of autism and ADHD. That said, Dr. Root believes Dr. Aita's determination that Claimant does not have autism is accurate and better supported than the autism diagnoses made by Dr. Asaika and Ms. Jauregui for two reasons. First, Dr. Asaika's autism diagnosis appears to be based on his clinical impressions and does not appear to include psychological testing. Second, Dr. Aita's testing methods and interpretations resulted in a more accurate diagnosis regarding autism than Ms.

Jauregui's. However, Dr. Root did not give a specific reason for her opinion that Dr. Aita's test results are more accurate.

### **TESTIMONY OF JANET MIRANDA-HERNANDEZ AND RELATED DOCUMENTS**

11. Ms. Miranda-Hernandez is employed by ACRC as a service coordinator. She has served as Claimant's service coordinator for approximately nine months.

12. Ms. Miranda-Hernandez and other ACRC employees write Consumer Information notes of their communications with Claimant's mother and others regarding Claimant. On July 25, 2024, Claimant's mother left a voicemail for Ms. Miranda-Hernandez asking for Claimant to be re-evaluated for autism. Ms. Miranda-Hernandez called Claimant's mother and told her it would be best for her to obtain from Claimant's pediatrician a referral to a neurologist for testing. Ms. Miranda-Hernandez stated she would submit a referral with Anthem Blue Cross Medi-Cal to request the referral.

13. On October 4, 2024, Claimant's mother left a voicemail for Ms. Miranda-Hernandez asking for a fair hearing regarding her request for Claimant to be re-evaluated for autism. Claimant's mother mentioned in the voicemail that Claimant was having many "episodes" at school and needs support. Ms. Miranda-Hernandez returned the call. Claimant's mother told her that she wants Claimant to have a new evaluation for autism. She stated that Claimant is eloping at school and having outbursts. She wants an autism diagnosis so she can explain to the school what level of autism Claimant has. Claimant's mother also stated that autism evaluations paid by Anthem Blue Cross Medi-Cal are conducted remotely online. Claimant wants ACRC to arrange for a re-evaluation for autism in person.

14. On October 15, 2024, Ms. Miranda-Hernandez spoke by telephone with an Anthem Blue Cross case manager, following her referral of Claimant's mother to Anthem for assistance in obtaining an in-person autism evaluation. The Anthem Blue Cross case manager confirmed that psychological evaluations within the Anthem Blue Cross Medi-Cal network would be conducted remotely online. He also confirmed that Claimant's mother expressed that she did not feel comfortable with virtual testing.

### **TESTIMONY OF LORIL TOCHTERMAN**

15. Ms. Tochterman is employed by ACRC as a client services manager. Her responsibilities include direct supervision of service coordinators including Ms. Miranda-Hernandez. She is familiar with Claimant's request to have follow-up testing for autism. She has spoken with Claimant's mother and told her that with a diagnosis of intellectual disability, Claimant is currently eligible to receive a full range of services through ACRC based on his needs.

16. Ms. Tochterman understands that a psychological evaluation for autism through the Anthem Blue Cross Medi-Cal network would be conducted remotely online. This is a generic resource available to Claimant which Claimant's mother has not utilized.

### **Claimant's Evidence**

#### **DOCUMENTS SUBMITTED BY CLAIMANT**

17. Claimant submitted 29 documents, all of which were admitted in evidence for all purposes without objection. With respect to the issue of whether ACRC should be required to fund another psychological evaluation for autism, the most

significant documents submitted by Claimant, and not included in ACRC's documents summarized above, are summarized below.

18. Claimant's treating neurologist, Dr. Asaika, prepared a clinical note dated December 12, 2023, stating that Claimant is diagnosed with autistic disorder. Dr. Asaika also prepared three identical letters to whom it may concern, with dates from December 2022 to January 2025, stating that claimant has ASD.

19. The school psychologist, Ms. Jauregui, prepared an additional psychoeducational study of Claimant, with a period of evaluation from September to November 2024. The purpose of the assessment was to assist the school in determining Claimant's continuing eligibility for special education services and to inform educational planning based on Claimant's identified strengths and needs. The one autism measure utilized in this assessment was the ASRS, on which Claimant's mother and teacher again reported behaviors showing a "very elevated" range of behaviors associated with autism. Ms. Jauregui wrote, "These ratings indicate that [Claimant] displays many behaviors associated with Autism Spectrum Disorder" at home and at school.

### **TESTIMONY OF CLAIMANT'S MOTHER**

20. Claimant's mother testified that she wants Claimant re-tested for autism. She wants a clear diagnosis so she can show people where he is "on the spectrum." She is concerned because Claimant "is not going to be a kid forever." She is pushing for "full documentation of what is going on" with Claimant. Anthem Blue Cross Medi-Cal "has been a run-around" for Claimant's mother. The online evaluation would not be a full evaluation, in her view.



21. Claimant's behavior at school "has gotten outrageous." She does not have "the full answer" when the school asks her "what is wrong" with Claimant. Claimant's mother is concerned about Claimant's behavior as "a young African American in this society." She wants to be able to show law enforcement and other authorities a formal diagnosis in the event Claimant acts out.

### **TESTIMONY OF MICHELLE BRADFORD**

22. Ms. Bradford is an independent contractor serving ACRC clients. She serves as part of Claimant's planning team. Claimant's mother wants a definitive autism diagnosis of Claimant so she knows "what type of autism" he has and where he is "on the spectrum." This is a "personal fight" for Claimant's mother because she is afraid of what might happen to Claimant as he gets older. A "young black man without a diagnosis" who acts out can "get gunned down." Claimant's mother wants to protect Claimant "in the long run."

### **ANALYSIS**

23. Dr. Root testified credibly and convincingly that the assessment performed by Dr. Aita is reliable in the finding that Claimant does not have ASD. Her testimony was also credible and convincing on the point that Dr. Aita's findings are more definitive than the diagnosis provided by Dr. Asaika. As to the diagnosis provided by Ms. Jauregui, Dr. Root did not give specific reasons for her opinion that Ms. Jauregui's diagnosis of autism is less reliable than Dr. Aita's finding that Claimant does not have autism. For this reason, Dr. Root's opinion is given less weight in this regard.

24. However, Claimant did not present sufficient evidence to show that Ms. Jauregui's autism diagnosis should be given more weight or that Dr. Aita's findings

should be given less weight in light of Dr. Asaikar and Ms. Jauregui's autism diagnosis. For these reasons, the evidence does not support a finding that it is necessary at this time to conduct a new psychological evaluation of Claimant to reassess him for autism. Given these findings, it would not be an effective use of resources to require ACRC to fund another psychological evaluation of Claimant at this time. Further, given these findings, it is not necessary to decide now whether the online autism evaluations offered by Anthem Blue Cross Medi-Cal are a sufficient generic resource.

## **LEGAL CONCLUSIONS**

### **The Burden and Standard of Proof**

1. In an administrative hearing, the burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, Claimant bears the burden of proving, by a preponderance of the evidence, that ACRC is required provide a second opinion assessment of whether Claimant has autism. (Evid. Code, § 115.)

### **Applicable Law**

2. The Lanterman Act sets forth a regional center's obligations and responsibilities to provide services to individuals with developmental disabilities. As the California Supreme Court explained in *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388, 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.” Under the Lanterman Act, regional centers are “charged with providing developmentally disabled persons with ‘access to the facilities and services best suited to them throughout their lifetime’” and with determining “the manner in which those services are to be rendered.” (*Id.* at p. 389, quoting from Welf. & Inst. Code, § 4620.)

3. It is the Legislature’s intent that the services and supports provided by the regional center system should “reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.” (Welf. & Inst. Code, § 4646, subd. (a).) Further, the planning process for an individual shall include assessments “conducted by qualified individuals.” (Welf. & Inst. Code, § 4646.5, subd. (a)(1).)

## **Disposition**

4. The preferences of Claimant’s mother to have ACRC fund another psychological evaluation to reassess him for autism have been considered. As set forth in the Factual Findings above, Dr. Aita prepared a reliable psychological assessment including psychological testing. Dr. Aita is qualified to perform such an evaluation. It would not be a cost-effective use of public resources to require ACRC to fund another psychological evaluation at this time.

5. For these reasons, and based on the Factual Findings and Legal Conclusions as a whole, Claimant did not meet his burden of establishing by a preponderance of evidence that he is entitled to have ACRC fund a new psychological evaluation to reassess him for autism. Claimant’s appeal must therefore be denied.

## **ORDER**

Claimant's appeal is DENIED.

DATE: February 3, 2025

TIMOTHY J. ASPINWALL

Administrative Law Judge

Office of Administrative Hearings

## **NOTICE**

This is the final administrative decision. Each party is bound by this decision. Either party request a reconsideration within 15 days of receiving this decision (Welf. & Inst. Code § 4713, subd. (b)), or appeal this decision to a court of competent jurisdiction within 180 days (Welf. & Inst. Code § 4712.5, subd. (a)).