

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

In the Matter of:

CLAIMANT

and

SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,

Service Agency.

DDS No. CS0018023

OAH No. 2025010042

DECISION

Jennifer M. Russell, Senior Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on February 12, 2025. Tami Summerville, Appeals and Governmental Affairs Manager, represented South Central Los Angeles Regional Center (SCLACRC or service agency). Mother represented Claimant, who was not present at the hearing. To preserve privacy and confidentiality neither Mother nor Claimant is referenced by name. Ivone Reyes provided Spanish language interpretation services.

The service agency's expert witness, Laurie McKnight Brown, Ph.D., and Mother testified. Documents identified as Exhibit 2 through Exhibit 10 were admitted in evidence. The record closed, and the matter was submitted for decision at the conclusion of the hearing.

ISSUE FOR DETERMINATION

Whether Claimant is eligible for services and supports pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code section 4500 et seq.

FACTUAL FINDINGS

Jurisdictional Matters

1. By letter dated September 17, 2024, SCLARC notified Mother of its determination Claimant was ineligible to receive services and supports under the Lanterman Act.
2. On January 2, 2025, on behalf of Claimant, Mother filed an Appeal Request Form requesting mediation and a hearing.
3. SCLARC and Mother did not resolve the appeal at mediation.
4. On January 13, 2025, OAH notified the parties of a state-level fair hearing scheduled for February 12, 2025.
5. All jurisdictional requirements are satisfied.

SCLARC's Assessments and Evaluations of Claimant

6. Laurie McKnight Brown, Ph.D., is the lead staff psychologist at SCLARC with responsibilities for, among other things, supervising staff psychologists and assisting with appeals. Dr. Brown is a member of SCLARC's interdisciplinary team conducting eligibility assessments and evaluations. At hearing, Dr. Brown explained the eligibility categories and substantial disability requirements set forth in the Lanterman Act and its regulations. SCLARC's interdisciplinary team consults diagnostic criteria and identifying characteristics of Autism Spectrum Disorder (ASD) and Intellectual Disability (ID) in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) to determine eligibility for services and supports under the Lanterman Act's qualifying categories of "autism" and "intellectual disability."

7. The DMS-5-TR sets forth diagnostic criteria for ASD as follows:

A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history:

1. Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.
2. Deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal

communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.

3. Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.

B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history:

1. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypies, lining up toys or flipping objects, echolalia, idiosyncratic phrases).
2. Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat same food every day).

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3. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests).
4. Hyper- or hyporeactivity to sensory input or unusual interest in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sound or textures, excessive smelling or touching of objects, visual fascination with lights or movement).

C. Symptoms must be present in early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life).

D. Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.

(See Exh. 9 [at A74].)

8. These essential diagnostic features of ASD—deficits in social communication and social interaction (Criterion A) and restricted repetitive patterns of behavior, interests, and activities (Criterion B)—must be present from early childhood and limit or impair everyday functioning (Criteria C and D).

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9. The DSM-5-TR defines ID as “a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains.” (Exh. 9 [at A83].) 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 socio-cultural 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.

(Id.)

10. Thus, the definitive characteristics of ID include deficits in general mental abilities (Criterion A) and impairment in everyday adaptive functioning, in comparison to an individual’s age, gender, and socio-culturally matched peers (Criterion B). To meet the diagnostic criteria for ID, the deficits in adaptive functioning must directly relate to the intellectual impairments described in Criterion A. Onset is during the

developmental period (Criterion C). A diagnosis of ID cannot not be assumed because of a particular genetic or medical condition. Any genetic or medical diagnosis is a concurrent diagnosis when ID is present. The DSM-5-TR emphasizes the need for an assessment of both cognitive capacity and adaptive functioning. The severity of ID is determined by adaptive functioning rather than IQ score. (*Ibid.*)

11. The SCLARC interdisciplinary team is guided by the Association of Regional Center Agencies' *Recommendations for Assessing "Substantial Disability" for the California Regional Centers*, admitted as Exhibit 10, to determine the presence or absence of a substantial disability caused by a condition eligible for Lanterman Act services and supports.

12. Dr. Brown explained SCLARC's initial evaluation and assessment of Claimant began with an in-person assessment of Claimant's adaptive functioning across several domains—motor, self-care, safety awareness, cognition, communication, and social/behavioral—by Shirley Cardenas, an intake service coordinator, on September 21, 2023. The assessment is based on information Mother provided Ms. Cardenas. At the time, Claimant was an eight-year-old third grader. The resulting September 27, 2023 *Lanterman Psycho-Social* report indicates Claimant has no limitations regarding his fine and gross motor skills. Claimant can move all of his extremities and he ambulates without assistance. Claimant is independent in his self-care, including brushing his teeth, bathing, and dressing. Claimant is toilet trained and has complete bladder and bowel control. Claimant does not prepare food; he communicates when he is hungry to Mother. On occasions when Claimant sustained minor injuries, he sought mother's help for treatment. In terms of safety, Claimant is able to discern danger. The *Lanterman Psycho-Social* report indicates Claimant can add and subtract and write simple sentences. Claimant misspells words. Claimant has

difficulty comprehending what he reads. Claimant does not complete his homework independently. Regarding communication, Claimant expresses himself using simple sentences and gestures. He has trouble engaging in elaborate conversations. His speech is unclear. Socially, Claimant engages with children of his age and he has one friend at school. Claimant plays with other children during outings to the park. (Exh. 5.)

13. At the time of the intake interview, Claimant had an April 13, 2023 initial Individualized Education Plan (IEP) with the following assessment summary of his articulation development in support of his school district's determination that he was ineligible for Special Education services:

[Claimant] scored within the average range on the test of articulation. He can produce all the speech sounds correctly at word and sentence level on the formal and informal tests in English and Spanish. His speech intelligibility can be judged to be between 90-95% in his connected speech. Few Examples: He is swimming the pool. They are running to the playing. The cat jump the tree. The boy got fell. Because he got broke, he cannot stand up, etc. [Claimant] can follow 1-2 step directions. He can answer simple wh questions correctly. He can use 4-6 word sentences to communicate and express his thoughts/opinions when engaged in functional communication. However, grammatical errors were noted in his sentences as he is an English Language learner. [Claimant] is at an ELD [English Language Development] level 2 and is demonstrating differences in English language use due to typical language acquisition

patterns expected of student learning English as a second language. He can initiate, maintain and take appropriate turns in a conversation.

(Exh. 8 at p. 3 [A69].)

14. Dr. Brown additionally explained Sammie Williams, Psy.D., who is an SCLARC consultant with an Autism Specialist certification, conducted a psychological evaluation of Claimant over a two-day period in March 2024. At the time, Claimant was a nine-year-old. Dr. Williams' psychological evaluation included interviewing Mother and administering the Adaptive Behavior Assessment System-Third Edition (ABAS-3), the Autism Diagnostic Interview-Revised (ADI-R), the Gilliam Autism Rating Scale-3 (GARS-3: Spanish), and the Weschler Intelligence Scale for Children-Fifth Edition (WISC-V).

15. In a May 28, 2024 *Confidential Psychological Evaluation*, Dr. Williams reports observing Claimant in person and Claimant "did not effectively follow any prompts or directive when given," "does not consistently point to request or show as he also becomes frustrated when attempting to express himself if not readily understood due to his limited communication abilities," and "sporadically displays the ability to follow the examiner's gaze." (Exh. 6 at p. 3 [A40].) Addressing Claimant's cognitive or intellectual abilities, Dr. Williams reports, when compared to other children of his age, Claimant's intellectual level of functioning, assessed with administration of the WISC-V, is in the "'Low Average' range, which is greater than or equal to 18% of other children his age ($FSIQ=86$: 18th%ile)." (*Id.*) Claimant's adaptive functioning or behaviors, meaning Claimant's performance of day-to-day activities necessary for self-care, safety precautions, use of community resources, and successful interactions with others in a variety of settings and situations, were rated as "Extremely

Low” with respect to his functional communication skills which includes speech, listening, conversational and nonverbal communication skills; his leisure skills needed for engaging in play and recreational activities, initiating and maintaining friendships, and expressing and recognizing emotions; his health and safety skills needed to protect his physical well-being to prevent and respond to injuries, including following safety rules and showing caution when necessary; his self-care activities, including eating, dressing, and caring for his personal hygiene; and his ability to make independent choices, exhibit self-control and take responsibility when appropriate. (*Id.* at p. 5 [A42].)

16. Dr. Williams specifically assessed Claimant for symptoms and behaviors associated with ASD and found Claimant presents with “deficits and related mannerisms [that] were more than likely observed prior to age three.” For example, regarding the quality of his social interaction, Claimant’s facial expressions are limited and the appropriateness of his social responses is poor. In terms of his language, Claimant struggles to express his needs and does not effectively engage in reciprocal conversations unless discussing his own interests. Regarding restricted, repetitive, and stereotyped patterns of behavior, Claimant displays a range of verbal rituals. (*Id.* at p. 6 [A43].)

17. In the May 28, 2024 *Confidential Psychological Evaluation* report he prepared, Dr. Williams states his conclusions and diagnostic impressions as follows:

Summary and Conclusions

[Claimant] is a 9-year-old male who at present is experiencing various symptoms associated with ASD. For example, [Claimant’s] symptoms associated with ASD (e.g.,

deficits in communication, speech/language, social interactions, restricted interests and repetitive patterns of behavior, etc.) and various observable symptoms, such as poor reciprocal communication, attention to task, restrictive/repetitive interests and behaviors, varying activity levels, poor problem solving, self-control and regulation, as well as a range of stereotypical behaviors appear to impair various aspect [sic] of his day-to-day functioning.

Diagnostic Impressions

At present, with a "Low Average" FSIQ of 86, including a well-documented history of developmental, communication, as well as social challenges, [Claimant's] cognitive and intellectual scores suggest that overall, he is performing below his same-age peers.

In addition, [Claimant's] adaptable functioning present with a range of challenges in his reciprocal social communication abilities, self-help, self-direction, and his overall daily living socialization skills with impairs his ability to function across most psychosocial domains (i.e., self-care, interpersonal, home, school, community). [Complaint] currently requires adult supervision, guidance, and support at all times.

DSM-V Diagnostic Impressions

(F84.0) Autism Spectrum Disorder (supported history and functioning)

Requiring support for deficits in social interactions/communication (Level 3);

Requiring support for restricted, repetitive behaviors (Level 3)[.]

(*Id.*; Italics in original text) Among other things, Dr. Williams recommends an Applied Behavior Analysis (ABA) program with a parent training component for Claimant.

18. By letter dated May 29, 2024, SCLARC informed Mother its interdisciplinary core staff team carefully considered the September 1, 2023 *Lanterman Psycho-Social* report and the May 28, 2024 *Confidential Psychological Evaluation* report and determined the following:

[Claimant] does not have a “developmental disability” as that term is defined by California Welfare and Institutions Code, Section 4512, subdivisions (a) and (1) and the California Code of Regulations, Title 17, Sections 54000 through 54002. More specifically, [Claimant] is not substantially disabled as a result of having Intellectual Disability, Seizures or Cerebral Palsy. The interdisciplinary team also concluded [Claimant] is not substantially disabled as a result of a condition closely related to Intellectual Disability nor does [Claimant] require treatment similar to that required by individuals with Intellectual Disability.

[Claimant] was diagnosed with Autism Spectrum Disorder, not considered substantially handicapping.

(Exh. 3 at p.7 [A23].)

19. Mother continued to express her concerns about Claimant. At hearing, Dr. Brown testified “because of discrepancies in the records—Claimant went from one year not being eligible to having an ASD diagnosis—the team made an attempt to get a better understanding.” According to Dr. Brown, “It was concerning to the team that [Dr. Williams’ May 28, 2024 *Confidential Psychological Evaluation* report] showed a high level of disability where other records did not.” Notwithstanding those concerns, Dr. Brown’s testimony established the interdisciplinary team did not consult with Dr. Williams to illuminate his conclusions, diagnostic impressions, or recommendations. Instead, the interdisciplinary team “requested a school observation to reconcile the differences.”

20. On August 27, 2024, a member of SCLARC’s interdisciplinary team who is an education specialist, Monique E. Craig, M.S., conducted an observation of Claimant in his combination fourth/fifth grade classroom. In the August 27, 2024 *School Observation Report* she prepared, Ms. Craig provides the following consultation summary:

[Claimant] was initially observed seated in the rear of the classroom at a small table alone playing a video game on his chrome notebook instead of working on the assigned task of reading Fluency. After a few minutes students were asked to go to their designated tables

During the transition, [Claimant] was observed talking with his male peers and making giggly/high pitch sounds, he appeared inattentive, anxious and required re-direction as

he became distracted a few times as peers worked quietly on their math assignments. During the next math session, [Claimant] was observed participating in a Math Rotating Center with teacher Mrs. [S.] and two other students. As the other students worked diligently to complete their subtraction equation and had moved on to work on the next one, [Claimant] was observed struggling to complete the same equation $3,276 - 1,894 = 1,382$. Mrs. [S.] expressed that [Claimant] often needs re direction and assistance in completing school assignments, he requires an extensive break down of assignments, [and] more time to complete class assignments.

As [Claimant] transitioned to his Reading Segment [*s/c*] he was observed reading an excerpt of a story in English without difficulty. He later became restless as the other students were reading their segments stating he was sleepy and ready to go to recess[.] [Claimant] rambled something to the sound of getting up early, blaming his brithers [*s/c*] that he doesn't sleep well[.] [Claimant] was observed yawning, rubbing his eyes, twirling a pencil [and] resting his head on the desk. [¶]

[Claimant] appears as a young male student who appears of average cognition. He is currently in 4th grade and receives General Education Services. He is placed in a Combination Class of 4th & 5th grade students Multilingual/Multicultural

Education Center. He is reportedly doing okay academically; however there were noted deficits of inattention, hyperactivity, and anxiety and distraction. [Claimant] requires constant re-direction to complete assignments and attend to daily tasks.

(Exh. 7.) Ms. Craig recommended mental health services for Claimant “to address noted inattention, distraction, anxiety and hyperactivity[,]” “a Peer Appropriate Social Skills Training or Social Recreation Program to increase social engagement and social communication skills[,]” and “a Sports Team, Swimming, Karate, etc. to increase overall social skills and team building abilities.” (*Id.*)

21. Dr. Brown explained SCLARC’s interdisciplinary team again considered Claimant’s case, this time including the August 27, 2024 *School Observation Report* along with the September 1, 2023 *Lanterman Psycho-Social* report and the May 28, 2024 *Confidential Psychological Evaluation* in its review. Dr. Brown explained the team “considered the entire record” and “did not find three areas of substantial disabilities.” By letter dated September 20, 2024, SCLARC informed Mother that after receiving additional information its interdisciplinary team again concluded Claimant is not substantially disabled as a result of having Intellectual Disability, Seizures, Cerebral Palsy, or a condition closely related to Intellectual Disability or requiring treatment similar to that required by individuals with Intellectual Disability. SCLARC further informed Mother that Claimant “was diagnosed with Autism Spectrum Disorder, not considered substantially handicapping.” (Exh. 3 at p.1 [A17].)

22. In January 2025, at Mother’s request, Claimant’s school district reevaluated Claimant. In the school district’s January 23, 2025 *Re-evaluation Psycho-Educational Assessment*, the reporting psychologist determined Claimants “estimated

cognitive ability is within the Average range” based on procedures for measuring intellectual ability, including performance on tasks attempted, interpretation of processing strengths and areas of need, observations, interviews, and review of data. (Exh. A at pp. 5-8 [Z5-Z9].) Regarding academic performance, Claimant “is most successful in math.” In language Arts, Claimant “demonstrates difficulty completing his thoughts when working on writing examples” and “is demonstrating difficulty understanding and solving word problems.” Claimant’s grades indicate he is making minimal progress toward fourth grade level standards in areas of functional reading, making meaning from text, written expressions, math content, and math practice. (Exh. A at p. 8 [Z9].) Measurements of Claimant’s social emotional adjustment within his educational setting, yield “At Risk” or “Clinically Significant” ratings indicating Claimant’s inability to use age-appropriate vocabulary and inadequate expression of ideas orally and in written language. Claimant does not contribute, participate, and engage in classroom discussions and activities. He does not engage in social communication with peers and adults adequately, meaning taking turns in conversations, looking at the speaker, standing at an appropriate distance from the speaker and using facial expressions and gestures. (Exh. A at p. 10 [Z11].)

23. The reporting psychologist discussed Claimant’s teacher’s and Mother’s consistent concerns about Claimant’s social skills noting the following: Claimant withdraws himself from class and prefers to work alone even when prompted to work in a group. Claimant has difficulty getting along and relating well to his peers. Claimant prefers to wander around for a quiet spot to avoid working with others. Claimant demonstrates difficulty expressing himself in an age-appropriate manner. He engages in unusual behaviors; has problems with inattention or motor and impulse control or both; has difficulty relating to children; has difficulty providing appropriate emotional response to people in social situations; uses language in an atypical

manner; engages in stereotypical behaviors; has difficulty tolerating changes in routine; overreacts to sensory stimulation; and has difficulty focusing attention. (Exh. A at pp. 14-16 [Z15-Z17].)

24. Based on the foregoing, the school psychologist determined Claimant is eligible for Special Education services under the category of Specific Learning Disability and Autism with a notation that Claimant's needs are best expressed by his observed characteristics associated with Autism. (See Exh. A at pp. 17-18 [Z18-Z19].)

25. The January 23, 2025 *Re-evaluation Psycho-Educational Assessment* was not available to the SCLARC interdisciplinary team at the time of its eligibility review and determination in May and September 2024.

Mother's Testimony

26. Mother testified, "Everything [Dr. Williams] said is what I'm struggling with my son. He doesn't socialize with other kids. He doesn't know how to express himself." Claimant "repeats his words" and he "repeats the same cartoon." When Mother talks to Claimant, "he doesn't follow my conversation." When Mother "give[s] him three things to do, he follows two, not all three [and] at times he doesn't follow any. . . . [Claimant] repeats, "'Mommy what do you tell me.'" Mother testified, "When I explain things I see in his face that he's not understanding what I'm saying. He struggles."

27. Mother testified although "some records" show Claimant can perform self-care activities, she "see[s] differently." Mother revealed, "I shower him. I change his clothes. He wears diapers at night. He wets his clothes during the day. I do everything for him. . . . I disagree that he can care for himself. That's a lie because I do it all for him."

28. Mother reports Claimant “is very destructive.” For example, when he has to cross the street, Claimant “doesn’t measure danger; he just starts crossing when the light is red.” When Mother instructs Claimant wait until the light is green, “he starts hitting his head; he doesn’t see danger.” Mother emphasized, “If I don’t hold his hand he runs to the other side. He thinks nothing will happen. . . . I had to pull or grab him by the sweater or hand.”

29. Mother has noticed Claimant “is very annoyed with noises—ambulance, police.” Claimant screams and moves his head side-to-side when he hears sirens while taking the bus. Mother testified, “I have to hug him to get him close to me.”

30. Mother credibly testified that Claimant was receiving mental health assistance “but the person who examined [Claimant] said [Claimant] doesn’t have to be in that place and take him out.” The unidentified mental health worker advised Mother to seek services and supports for Claimant from SCLARC.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. As Claimant is seeking to establish eligibility for Lanterman Act supports and services, he has the burden of proving by a preponderance of the evidence he has met the Lanterman Act’s eligibility criteria. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits]; *Greator v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 [retirement benefits]; Evid. Code, § 500.)

2. “‘Preponderance of the evidence means evidence that has more convincing force than that opposed to it.’ (Citations.) . . . [T]he sole focus of the legal

definition of 'preponderance' in the phrase 'preponderance of the evidence' is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325, original italics.) In meeting the burden of proof by a preponderance of the evidence, Claimant "must produce substantial evidence, contradicted or un-contradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

Applicable Law

3. The Lanterman Act defines "developmental disability" to mean the following:

[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. . . . [T]his term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

(Welf. & Inst. Code, §4512, subd. (a)(1).)

4. California Code of Regulations, title 17 (CCR), section 54000 further defines "developmental disability" as follows:

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(a) "Developmental Disability" means a disability that is attributable to [intellectual disability], cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to [intellectual disability] or to require treatment similar to that required for individuals with [intellectual disability].

(b) The Developmental Disability shall:

- (1) Originate before age eighteen;
- (2) Be likely to continue indefinitely;
- (3) Constitute a substantial disability for the individual . . .;

(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.

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(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 mental retardation.

5. Establishing the existence of a developmental disability within the meaning of the Lanterman Act and promulgated regulations requires Claimant additionally to establish by a preponderance of evidence the developmental disability is a "substantial disability," defined in section 4512, subdivision (1), to mean "the existence of significant limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person: (1) Self-care. [¶] (2) Receptive and expressive language. [¶] (3) Learning. [¶] (4) Mobility. [¶] (5) Self-direction. [¶] (6) Capacity for independent living. [¶] (7) Economic self-sufficiency."

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Discussion

6. On two separate occasions, in May and September 2024, the SCLARC interdisciplinary team reviewed documents, including a September 27, 2023 *Lanterman Psycho-Social* report, a May 28, 2024 *Confidential Psychological Evaluation* report, and an August 27, 2024 *School Observation Report*, to determine whether Claimant presents with any condition meeting the definition of a developmental disability discussed in Legal Conclusions 3 through 5. The evidentiary record in this matter supports the SCLARC interdisciplinary team's determination finding Claimant does not present with cerebral palsy, epilepsy, ID, or a disabling condition closely related to ID or requiring treatment similar to that required for individuals with ID.

7. The evidentiary record supports the SCLARC interdisciplinary team's determination finding Claimant presents with autism. The evidentiary record does not, however, support the SCLARC interdisciplinary team's determination finding Claimant's developmental disability is not substantially disabling. To the contrary, a preponderance of the evidence establishes Claimant presents with a "substantial disability" across multiple settings in three areas of major life activities—receptive and expressive language, learning, and self-direction.

(a) Receptive and Expressive Language: Claimant uses language in an atypical manner. He lacks an age-appropriate vocabulary. He displays a range of verbal rituals. He uses simple sentences and gestures. He has a demonstrated inability to express ideas orally and in writing. He does not effectively engage in reciprocal conversations unless he is discussing his own interests. He has trouble with elaborate conversations. He does not adequately engage in social communication, including taking turns conversing, using facial expressions and gestures, looking at the speaker, and maintaining an appropriate distance from the speaker. He has difficulty providing

appropriate social responses. Dr. William reports the severity of Claimant's deficits in social interactions/communication is at Level 3, which according to the DSM-V-TR requires "substantial support." (Exh. 9 at A76.)

(b) Learning: Claimant demonstrates difficulty completing his thoughts working on writing assignments. He has difficulty understanding and solving word problems. His progress in functional reading discerning meaning from text and written expression is minimal. Claimant does not contribute, participate, or engage in classroom discussions and activities. Claimant withdraws and prefers to work alone even when prompted to work in a group. He prefers to wander around to avoid working with his peers. Working with peers is an instructional strategy at Claimant's school and his inability to work with others impedes his learning.

(c) Self-direction: Claimant requires but does not effectively follow prompts or directives. He is inattentive. At home and in his educational environment, Claimant often needs re-direction and assistance. He struggles with change and transitions. He is challenged exhibiting self-control; he hits his head when experiencing frustration. He lacks age-appropriate safety awareness. As Dr. Williams notes, Claimant "*requires adult supervision, guidance, and support at all times.*" (See Factual Finding 17.)

8. Regarding other areas of major life activities, the evidentiary record regarding Claimant's self-care is contradictory and therefore inconclusive. Claimant is ambulatory; he requires no crutches, wheelchair, or walker for mobility. Given Claimant's developmental age, any assertion regarding his capacity for independent living would amount to speculation. With appropriate interventions, such as ABA services Dr. Williams suggested, Claimant is could achieve a level of amelioration to promote and support his economic self-sufficiency.

9. Based on the totality of the evidentiary record in this matter, cause exists to grant Claimant's appeal. Claimant has met his burden of establishing by a preponderance of evidence his eligibility for Lanterman Act services and supports under section 4512, subdivision (a)(1), of the Welfare and Institutions Code.

ORDER

1. Claimant's appeal is granted.

2. South Central Los Angeles Regional Center shall deem Claimant eligible for Lanterman Act services and supports in accordance with Welfare and Institution Code section 4512, subdivision (a)(1).

DATE:

JENNIFER M. RUSSELL

Senior Administrative Law Judge

Office of Administrative Hearings

NOTICE

This is the final administrative decision. Each party is bound by this decision. Either party may request a reconsideration pursuant to subdivision (b) of Welfare and Institutions Code section 4713 within 15 days of receiving the decision, or appeal the decision to a court of competent jurisdiction within 180 days of receiving the decision.