

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

In the Matter of:

CLAIMANT

and

SAN GABRIEL/POMONA REGIONAL CENTER,

Service Agency

DDS No. CS00023480

OAH No. 2025010062

DECISION

Administrative Law Judge Deena R. Ghaly, Office of Administrative Hearings, State of California, heard this matter on May 22, 2025, at the San Gabriel/Pomona Regional Center (SGPRC or Service Agency) in Pomona, California.

Rosa Fernandez, Appeals and Resolutions Manager, represented the San Gabriel/Pomona Regional Center. Claimant's mother (Mother) represented Claimant. The names of Claimant and his family members are omitted to protect their privacy and maintain the confidentiality of this proceeding.

Testimony and documentary evidence were received. The record closed, and the matter was submitted for decision on the hearing day.

ISSUE

Is Claimant eligible to receive services and supports from the Service Agency under the Lanterman Developmental Disabilities Services Act (Lanterman Act) under a diagnosis of autism spectrum disorder (ASD)?

EVIDENCE RELIED UPON

Documents: Claimant's Exhibits A through F; Service Agency Exhibits 1 through 11.

Testimony: For Claimant, Dr. Joseph Haraszti, Mother, and Sister. For Service Agency: Dr. Yadira Vazquez.

FACTUAL FINDINGS

Background

1. Claimant was born on July 19, 2019. He was born with amphetamines and alcohol in his system and was immediately removed from his biological mother's care. When he was two years old, Claimant was adopted by Mother.

2. Claimant has a history of extreme behavioral issues and has been diagnosed with Fetal Alcohol Syndrome, Attention Deficit Hyperactivity Disorder (ADHD), and ASD by his healthcare providers.

3. Claimant lives with his parents, younger brother, and 17-year old sister (Sister). He receives psychological and psychiatric counseling and has been on several medications including the anti-psychotic drug Risperdal and the anti-anxiety drug Clonidine to address his behavior and mood. Claimant attends special education classes as a kindergartener and attended SGPRC's early intervention programs until he aged out.

Claimant's Evidence

DR. HARASZTI

4. Dr. Joseph Haraszti, a psychiatrist, has been treating Claimant since March 2024, seeing him every two and four weeks and, during periods when Claimant's symptoms peak, once a week.

5. Dr. Haraszti earned his medical degree from Johns Hopkins Medical School and completed his residency in psychiatry at the University of Chicago Hospitals and Clinics. He also completed a fellowship in psychopharmacology at the Illinois State Psychiatric Institute. Dr. Haraszti both maintains a private practice and serves on the faculties of several medical schools. His stated subspecialties include child and adolescent psychiatry and addiction medicine.

6. Dr. Haraszti testified at the hearing as follows: Based on his observations of Claimant during their sessions and his review of Claimant's medical records, Dr. Haraszti diagnosed Claimant with ASD among other conditions, and classified him at "level 2" meaning Claimant's condition causes him substantial limitations and he will likely never be able to live independently.

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7. The behaviors Dr. Haraszti observed in Claimant he believes are consistent with an ASD diagnosis are Claimant's aggressiveness and propensity to violence, hypersensitivity to certain smells, tastes, and textures, and self-injurious behavior including picking at his skin and pulling continuously at his genitalia. Dr. Haraszti also noted that, during their sessions, Claimant could not read social cues or maintain eye contact, could only answer Dr. Haraszti's questions while distracted by something else, like playing cards and then only with one-word answers, and would flap his hands and spin, all behaviors consistent with an ASD diagnosis.

8. Dr. Haraszti believes Claimant will never be able to develop relationships with other children. His extreme behavior will push others away. Dr. Haraszti also believes Claimant cannot attend to his hygiene or appearance to the degree other children his age can.

9. Dr. Haraszti acknowledged Claimant also suffers from Fetal Alcohol Syndrome and ADHD, but he believes Claimant's most maladaptive behaviors are not consistent with these other conditions and are consistent with an ASD diagnosis.

MOTHER

10. Mother has over 20 years' experience as a foster parent. She has also worked with regional center consumers, including boarding adult consumers with ASD in her home. For twenty-three years, she was a bus driver, driving special needs children, many of whom had been diagnosed with ASD, to their programs. Mother served as Claimant's respite worker before she adopted him. Mother stated she recognized the symptoms of ASD in him in part because of her extensive experience with individuals with the condition.

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11. Mother has taken Claimant to many health providers to secure assistance for him. He has been prescribed 12 different kinds of psychotropic and sedating medications. None of them improved his behavior. While Claimant was enrolled in SGPRC's early intervention program, Mother noticed his behavior and mood improved while he was having ABA sessions. She stated Claimant's instructor recommended to her that he receive maximum levels of ABA services.

12. Now that Claimant has aged out of the early intervention program, nothing controls Claimant's behavior or helps him interact productively with others. On the contrary, according to Mother, Claimant has been attacking his siblings, biting and hitting them more than ever and Claimant's self-injurious behavior has continued unabated, leaving him scarred and pocked from where he picks at himself. Claimant also refuses to bathe or clean himself after toileting and can never be alone after relieving himself because he will throw his feces around the house. He cries every day before going to school and the school often would call Mother to retrieve him early until she insisted on his right to get an education. School reports show continued areas of deficit.

13. Mother also reported Claimant has limited speech, usually resorting to gestures to communicate his needs, like pointing to his mouth to indicate he is hungry. She has also seen Claimant flap his hands when he is excited or upset.

14. Sister also testified at the hearing. A teenager, she has taken care of Claimant and is familiar with his behavior. She corroborated many of Mother's observations, stating Claimant was violent, temperamental, prone to tantrums and will flap his hands and spin when frustrated or angry.

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SGPRC Evidence

DR. CARILLO

15. Dr. Thomas L. Carrillo is a psychologist who evaluated Claimant on May 5, 2022, when Claimant was two years, nine months old and prepared a report of his findings. During the evaluation, Dr. Carrillo interviewed Mother and Claimant, observed Claimant, and administered the Wechsler Intelligence test, the Vineland Adaptive Behavior Scales, and the Autism Diagnostic and Observation Schedule-Second Edition (ADOS-2).

16. Dr. Carrillo observed Claimant had good eye contact, which is generally not consistent with an ASD diagnosis but some hypersensitivity to sound, and lack of speech skills he opined could be indicative of ASD.

17. On the Wechsler test, Claimant's scores ranged from 10 to 14 on the subtests and his overall scores were consistent with cognitive abilities "within the bright normal range." (Exh. 5, p. A16.)

18. On the Vineland Adaptive Behavior Scales, Claimant's scores were consistent with what would be expected for a child his age on the communication, motor (testing gross and fine motor skills), and adaptive (daily living skills) behaviors portions of the test. Claimant's score for the socialization portion of the test were "within the borderline range of delay." (Exh. 5, p. A17.) Dr. Carrillo noted Claimant's socialization scores were the lowest within the area of adaptive functioning and that he would benefit from "exposure to socially and adaptively enriching environments." (*Ibid.*)

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19. Claimant scored a composite score of one on the ADOS-2 test, which Dr. Carrillo stated was within the minimum to no evidence of ASD level.

20. Overall, although Dr. Carrillo observed some indicia of autism, namely hypersensitivity to sounds and punching himself on the side of his head when angry, based on the Claimant's test scores and other factors, Dr. Carrillo concluded Claimant did not have ASD. He opined Claimant had severe ADHD.

DR. VAZQUEZ

21. Dr. Yadira Vazquez is a clinical psychologist. She graduated from Carlos Alvirzu University in San Juan, Mexico and she has been a California-licensed psychologist since 2007. Dr. Vazques has been evaluating potential consumers for SGPRC since 2018.

22. Dr. Vazques evaluated Claimant on October 24, 2024, when Claimant was five years, three months old. She recalls Claimant as a boisterous, energetic young boy who made eye contact and was receptive to engaging with her. She did not see Claimant flap his hands or make other repetitive actions, nor does she recall Claimant exhibiting hypersensitivity or engaging in self-destructive behavior such picking at his skin.

23. For her assessment, Dr. Vazquez administered the Wechsler Intelligence Scale, the Adaptive Behavior Assessment System, Third Addition, and the ADOS-2 tests in addition to interviewing Mother and observing Claimant. The Wechsler test results reflect Claimant's cognitive ability to be at 70, meaning he has borderline intellectual function though, in her report, Dr. Vazquez noted the score may be artificially low because of Claimant's hyperactivity and inability to focus.

24. Based on Claimant's ABAS-3 scores, Dr. Vazquez found he exhibited extremely low adaptivity, particularly in the areas of social, self-direction, self-care, and health and safety. Based on Claimant's ADOS-2 scores, she determined Claimant displayed low evidence of ASD symptoms and his performance on the test was not consistent with children his age diagnosed with ASD.

25. After Dr. Vazquez completed her assessment, the SGPRC interdisciplinary team met on December 4, 2024, and determined that Claimant does not have a developmental disability, including ASD.

LEGAL CONCLUSIONS

General Provisions

1. An administrative hearing to determine the rights and obligations of the parties, if any, is available under the Lanterman Act to appeal a service agency decision. (Welf. & Inst. Code, §§ 4700-4716.) Mother requested a hearing, on Claimant's behalf, to contest Service Agency's proposed denial of Claimant's eligibility for services under the Lanterman Act and therefore jurisdiction for this appeal was established.

2. Generally, when an applicant seeks to establish eligibility for government benefits or services, the burden of proof is on the applicant to prove eligibility by a preponderance of the evidence. (Evid. Code, §§ 115, 500.) "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 on the quality of the evidence. The quantity of the

evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324-325.)

Regional Center Eligibility

3. To be eligible for regional center services, a claimant must have a qualifying developmental disability. 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. . . . [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 an intellectual disability but shall not include other handicapping conditions that are solely physical in nature.

4. California Code of Regulations, title 17 (Regulation), section 54000, subdivision (c) provides that a 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 [intellectual disabilities].

5. To demonstrate a qualifying developmental disability within the meaning of Welfare and Institutions Code section 4512, claimants must show that they have a "substantial disability." Under Welfare and Institutions Code section 4512, subdivision (a)(1), a substantial disability means functional limitations in three or more of the following: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.

6. Regulation section 54001 further defines "substantial disability." It provides in part that a substantial disability means: "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.”

Autism Symptomology

7. The Diagnostic and Statistical Manual of Mental Disorders is the text most relied upon by practitioners providing psychiatric and neurodevelopmental diagnoses and treatment. The Fifth Edition (Text Revision) (DSM-5-TR) is its most recent version. According to the DSM-5-TR, to be diagnosed with ASD, an individual must present persistent deficits in social communication and social interaction (Criterion A) across multiple contexts, as manifested by the following, currently or by history: (1) deficits in social-emotional reciprocity, (2) deficits in nonverbal communication behaviors used for social interaction, and (3) deficits in developing, maintaining, and understanding relationships.

8. An individual also must demonstrate restricted, repetitive patterns of behavior, interests, or activities (Criterion B), as manifested by at least two of the following:

(1) stereotyped or repetitive motor movement, use of objects or speech, (2) insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior, (3) highly restricted, fixated interests that are abnormal in intensity or focus, and/or (4) hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment. In addition, symptoms must be present in the early developmental period and must cause clinically significant impairment in social,

occupational, or other important areas of current functioning (Criteria C and D) and not better explained by Intellectual Disorder or Global Development Delay (Criteria E).

(DSM-5-TR, p. 57.)

9. Although Claimant's results on tests administered by Drs. Carrillo and Vazquez did not comport with an ASD diagnosis, Claimant's evidence, consisting of Dr. Haraszti's testimony as well as that from family members finding the opposite is more persuasive and demonstrate he meets the DSM criteria for ASD. Dr. Haraszti's opinions and conclusions about Claimant were based on over a year of observation through his sessions with him and informed by extensive experience and expertise in child psychiatry. At the hearing, Dr. Haraszti presented a detailed and rounded picture of Claimant's condition based on these multiple encounters with him. The depth and understanding Dr. Haraszti's testimony provided was more convincing than the clinical test results by SGPRC's experts. Moreover, Mother brought to bear not just her direct experience caring for and observing Claimant, but also her experience caring for similar individuals. This too, made her evidence persuasive and ultimately determined to carry more evidentiary weight than Drs. Carrillo and Vazquez's opinions.

10. Thus, the evidence established that, from at least two years old, Claimant has not been able to effectively communicate and aside from the occasional playmate, has been unable to establish friendships with his peers. Claimant is consistently violent and apparently unable to correct his behavior for any sustained period. He engages in hand-flapping, skin-picking, and other repetitive behavior, and exhibits hyperreactivity to textures, smells, and tastes. Moreover, Claimant's condition has prevented him from productively participating in school and therefore learning, from caring for himself

consistent with his age, including being unable to toilet himself alone and from having even the modicum of independent living children his age might enjoy because his behavior mean it is impossible for him to ever be left without supervision. These attributes are consistent with the ASD criteria set out in the DSM-V and have been recognized as ASD by his treating psychiatrist, Dr. Haraszti.

11. Under these circumstances, the preponderance of the evidence established Claimant is properly diagnosed with ASD, is substantially disabled due to this condition, and is therefore eligible for services as a consumer at SGPRC.

ORDER

Claimant's appeal of San Gabriel/Pomona Regional Center's determination that is not eligible for regional center services is granted. San Gabriel/Pomona Regional Center will accept claimant as a consumer and begin providing him services forthwith.

DATE:

DEENA R. GHALY

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.