

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

In the Matter of:

CLAIMANT,

and

WESTSIDE REGIONAL CENTER,

Service Agency.

DDS No. CS0023141

OAH No. 2025010301

DECISION

Sandy Yu, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on April 25, 2025, at Westside Regional Center (Service Agency).

Ronald Lopez, Individuals with Disabilities Education Act Specialist, represented Service Agency.

Claimant's mother (Mother) and father (Father) represented Claimant, who was not present at the hearing. Names are omitted to protect the privacy of Claimant and her family.

The ALJ received testimony and documentary evidence. The record closed and the matter was submitted for decision at the conclusion of the hearing.

ISSUE

Is Claimant eligible or provisionally eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the category of Autism Spectrum Disorder (ASD)?

EVIDENCE RELIED UPON

In reaching this decision, the ALJ relied upon Service Agency's Exhibits 4 through 14, Claimant's Exhibits A and B, and the testimony of the following witnesses: Karesha Gayles, Psy.D., Service Agency's Psychology Administrator; Mother; and Father.

FACTUAL FINDINGS

Parties and Jurisdiction

1. Claimant is a four-year-old girl who lives with her parents and younger sister. Claimant seeks regional center services under the category of ASD.

2. Service Agency is a regional center designated by the Department of Developmental Services to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act, among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.)

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3. On October 17, 2024, Service Agency issued a Notice of Proposed Action, finding Claimant ineligible for regional center services because Claimant was not substantially disabled as a result of ASD.

4. On December 20, 2024, Mother filed a Fair Hearing Request, challenging Service Agency's eligibility determination.

5. All jurisdictional requirements have been met.

Claimant's Background

6. Claimant was born in Israel. She was healthy at birth. She sat independently and crawled around six months, walked at 14 months, and spoke her first word at 12 months. She was toilet trained at 27 months. Claimant was diagnosed with ASD at 18 months. From September 2023 through June 2024, she received 16 hours of early intervention services weekly in Israel. The services included occupational therapy, speech therapy and physical therapy. In June 2024, Claimant and her family moved from Israel to California.

7. Claimant's family friend recommended Claimant to seek regional center services from Service Agency. In July 2024, Brigitte Jameson, M.S.W., Service Agency's Intake Counselor, conducted a psychosocial assessment and requested a psychological evaluation.

Service Agency's Evaluation of Claimant's Eligibility for Services

CLAIMANT'S ASD DIAGNOSIS

8. In January 2023, Aya Shilon Hadass, L.N., S.L.N., of the Weinberg Child Developmental Center in Israel, diagnosed Claimant with ASD.

9. In August 2024, at Service Agency's request, Beth Levy-Wright, Ph.D., conducted a psychological assessment of Claimant. Dr. Levy-Wright concurred with Dr. Shilon Hadass, diagnosing Claimant with ASD, without accompanying language impairment and without accompanying cognitive impairment. (Exh. 6, p. A41.)

10. At hearing, Service Agency did not dispute Claimant's ASD diagnosis.

SUBSTANTIAL DISABILITY ANALYSIS

11. On October 2, 2024, Service Agency's multidisciplinary team determined Claimant was not eligible to receive regional center services because she was not substantially disabled by ASD. The multidisciplinary team consisted of a service coordinator, a physician, an autism specialist, a psychology consultant, and a psychologist.

12. In making its determination, the multidisciplinary team relied on a combination of its assessments of Claimant and information provided by Claimant's family. The team considered Ms. Jameson's psychosocial assessment and Dr. Levy-Wright's psychological assessment.

13. Dr. Karesha Gayles, Service Agency's Psychology Administrator, testified at hearing regarding the multidisciplinary team's assessment of Claimant. Dr. Gayles was not present for the October 2, 2024 multidisciplinary team meeting, but she reviewed the same documents and concurred with the team's determination. She conducted a school observation of Claimant on February 13, 2025, and observed Claimant displaying age-appropriate social and behavioral skills at school. According to Dr. Gayles, Service Agency's multidisciplinary team determined Claimant was substantially disabled in the area of self-direction, but not in any of the other areas considered, as described below.

14. The Association of Regional Center Agencies (ARCA) set forth definitions and guidelines for regional centers to consider when determining whether an individual is substantially disabled. (Exh. 14, A104-106.) Dr. Gayles testified the multidisciplinary team considered the ARCA guidelines when making their assessment. Based on Claimant's young age, the multidisciplinary team did not assess her in the areas of capacity for independent living and economic self-sufficiency.

Mobility

15. An individual is substantially disabled in the area of mobility if she has significant limitations with independent ambulation, including needing crutches, a walker, or a wheelchair, or if she has gait abnormalities and/or coordination problems that significantly interfere with mobility. Claimant's records did not indicate any physical impairments consistent with substantial disability in the area of mobility. Mother and Father reported Claimant can walk, run, jump, and use the stairs. Based on this information, the multidisciplinary team determined Claimant did not have significant functional limitations in mobility.

Self-Care

16. An individual is substantially disabled in the area of self-care if she has significant limitations in the ability to acquire and perform basic self-care skills, such as personal hygiene, grooming, and feeding. Mother and Father reported Claimant can remove her clothing, but needs help putting on her socks and shoes with Velcro closures. Claimant can feed herself with utensils with minimal spillage, and she can drink from an open cup and a cup with a straw. Based on this information, the multidisciplinary team determined Claimant did not have significant functional limitations in self-care.

Self-Direction

17. An individual is substantially disabled in the area of self-direction if she has significant impairment in the ability to make and apply personal and social judgments and decisions. Self-direction includes an individual's emotional development, interpersonal relationships, and interpersonal judgment. Mother and Father reported Claimant prefers to play alone, instead of with her peers. Dr. Levy-Wright also observed Claimant did not initiate play with her. Dr. Levy-Wright found Claimant has "persistent deficits in social communication and social interaction." (Exh. 6, p. A41.) Based on this information, the multidisciplinary team determined Claimant has significant functional limitations in self-direction.

Receptive and Expressive Language

18. An individual is substantially disabled in the area of receptive and expressive language if she has significant limitations in both the comprehension and expression of verbal and/or nonverbal communication, resulting in functional impairments. An individual must be impaired in both receptive and expressive language to consider this an area of substantial disability. When Dr. Levy-Wright assessed Claimant using Wechsler Preschool and Primary Scale of Intelligence, a standardized assessment measuring cognitive development, Claimant's Verbal Comprehension Index of 98 was in the Average range. (Exh. 6, p. A31.) When Dr. Levy-Wright assessed Claimant using the Vineland Adaptive Behavior Scales, 3rd Edition (Vineland-3), a standardized assessment measuring personal and social skills, Claimant's Communication standard score of 103, Receptive v-scale score of 17, Expressive v-scale score of 15, and Written v-scale score of 15 were in the Adequate range. (Exh. 6, A.32.) Dr. Levy-Wright's assessment noted Claimant could follow instructions, but had difficulties responding to "when" questions and engaging in

conversations with her. (*Ibid.*) Based on this information, the multidisciplinary team determined Claimant has significant functional limitations in expressive language, but not in receptive language. However, Service Agency contended that according to ARCA guidelines, Claimant did not have significant functional limitations in receptive and expressive language because Claimant did not have significant functional limitations in both receptive and expressive language.

Learning

19. An individual is substantially disabled in the area of learning if she is substantially impaired in the ability to acquire and apply knowledge or skills to new situations, even with special intervention. When Dr. Levy-Wright assessed Claimant using Wechsler Preschool and Primary Scale of Intelligence, Claimant's Full-Scale IQ of 85 was in the Low Average range. (Exh. 6, p. A28.) According to Dr. Gayles, Claimant's records did not indicate any learning impairments consistent with substantial disability. Based on this information, the multidisciplinary team determined Claimant did not have significant functional limitations in learning.

Claimant's Evidence

20. Mother contended Claimant has significant functional limitations in the following three areas: (1) self-direction; (2) receptive and expressive language; and (3) learning. Mother agreed with Service Agency's evaluation of Claimant's self-direction.

21. Mother contended Claimant has a history of language concerns. Claimant previously received speech therapy in Israel, which helped with her language development. Mother described Claimant's difficulties engaging in social situations and communicating with others.

22. Mother contended Claimant struggles with learning. Mother cited Dr. Levy-Wright's assessment in support of her position. According to Mother, Dr. Levy-Wright's found Claimant's Full-Scale IQ in the Low Average range.

23. Mother explained Claimant engages in masking, in which she appears typical in social settings, such as her school, but suppresses her emotions until she is at home. Mother testified Dr. Gayles's school observations report did not fully depict Claimant's challenges. Under cross-examination by Mother, Dr. Gayles reiterated that during her school observation, Claimant displayed age-appropriate social and behavioral skills in the classroom. Dr. Gayles explained the contrasting behaviors suggest emotional regulation challenges and selective engagement in different environments. Dr. Gayles asserted Claimant's language difficulties could relate to Claimant's recent transition from Israel to California.

Analysis of Evidence

24. The evidence supports Service Agency's contention that Claimant's ASD is not substantially disabling. Although it is undisputed that Claimant has significant functional limitations in self-direction, the evidence did not prove Claimant has significant functional limitations in three or more areas of major life activity. Dr. Levy-Wright did not find Claimant had any language or cognitive impairments. (Exh. 6, p. A41.) Dr. Levy-Wright found Claimant's performance in vocabulary acquisition was advanced for her age. (Exh. 6, p. A30.) Claimant's most recent educational records did not document any challenges in language development and cognitive development. (Exh. A, p. B5.) Given the assessments and school records, Mother's testimony is insufficient to prove Claimant has significant functional limitations in three or more areas of major life activity.

LEGAL CONCLUSIONS

Burden and Standard of Proof

25. In a proceeding to determine whether an individual is eligible for regional center services, the burden of proof is on Claimant to establish by a preponderance of the evidence she meets the proper criteria. (Evid. Code, §§ 115; 500.)

Applicable Law

26. The Legislature enacted a comprehensive statutory scheme known as the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) to provide a pattern 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 statutory scheme 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.)

27. The Department of Developmental Services is the public agency 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.)

28. Under the Lanterman Act, a developmental disability is 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 intellectual disability, cerebral palsy, epilepsy, autism, and other conditions similar to intellectual disability or requiring treatment similar to that required by individuals with intellectual disability, i.e., the fifth category. (Welf. & Inst. Code, § 4512, subd. (a).)

29. "Substantial disability" means the existence of significant functional 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, and (7) economic self-sufficiency. (Welf. & Inst. Code, § 4512, subd. (1)(1).)

30. A child who is under five years of age may be provisionally eligible for regional center services if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two of the following areas of major life activity, as determined by a regional center and as appropriate to the age of the child: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, and (5) self-direction. (Welf. & Inst. Code, § 4512, subd. (a)(2).)

Determination of Claimant's Eligibility for Services

31. Claimant proved by a preponderance of the evidence she has a development disability, as defined by Welfare and Institutions Code section 4512, subdivision (a). Claimant's ASD diagnosis is undisputed.

32. Claimant did not prove by a preponderance of the evidence she is provisionally or permanently eligible for regional center services under the Lanterman Act because the evidence did not prove Claimant has significant functional limitations in areas other than self-direction. The evidence therefore did not prove Claimant is

provisionally eligible, as she does not have significant functional limitations in the minimum two areas of major life activity, as defined by Welfare and Institutions Code section 4512, subdivision (a)(2). The evidence also did not prove Claimant is "substantially disabled," as she does not have significant functional limitations in the minimum three areas of major life activity, as defined by Welfare and Institutions Code section 4512, subdivision (1)(1).

ORDER

Claimant's appeal is denied. Claimant is not currently provisionally or permanently eligible to receive regional center services.

This decision does not preclude Claimant from presenting further evidence to Service Agency, at some later date, so that she can be re-assessed for her eligibility for services.

DATE:

SANDY YU

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.