

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

In the Matter of:

CLAIMANT

and

VALLEY MOUNTAIN REGIONAL CENTER, Service Agency

DDS No. CS0023147

OAH No. 2025010456

DECISION

Hearing Officer Coren D. Wong, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on March 7, 2025, in Stockton, California.

Claimant was represented by his mother. Spanish interpreter Dora Virginia De Fina assisted Mother. Claimant also appeared.

Jason Toepel, Compliance Officer, represented Valley Mountain Regional Center (VMRC), the service agency.

Evidence was received, the record closed, and the matter submitted for decision on March 7, 2025.

ISSUE

Is claimant eligible for regional center services and supports based on epilepsy?

FACTUAL FINDINGS

Background

1. Claimant is a 28-year-old man. Mother is his primary caretaker. Father passed away when Claimant was four years old. Grandmother was heavily involved in Claimant's upbringing prior to her passing. Claimant has five half-sisters, one of whom passed away, and four half-brothers. He has one brother.

2. Claimant and Mother have lived with one of his half-sisters, her husband, and their three children since 2021. Claimant and Mother previously lived alone in a different neighborhood. Claimant has never lived alone.

3. Claimant has a six-year-old son. He met his son's mother when he and Mother lived in the prior neighborhood. They were in a dating relationship for three years, during which she lived with Claimant and Mother. They separated three years ago. Claimant has visitation with his son. He currently does not provide any financial support.

Notice of Action

4. On October 25, 2024, VMRC issued Claimant a Notice of Action (NOA) denying his request for regional center services and supports. VMRC explained:

Based on review of the information available, [Claimant] does have a seizure disorder secondary to traumatic brain injury and cerebral hemorrhage requiring neurosurgery, dated 12/3/2018, which would have made him 22 years of age at the time. Regional Center Eligibility requires that the qualifying condition begin before 18 years of age. He does have problems with self-direction, capacity for independent living, and economic self-sufficiency which may also be related to a diagnosed major depressive illness, diagnosed sometime after the brain injury. [Claimant] is not eligible for Regional Center Services.

(Grammar original.)

5. Mother timely appealed the NOA by requesting an informal meeting, mediation, and fair hearing. She explained in her appeal:

[Claimant] requires 24-hour supervision and even critical life skills. Requires verbal prompts to initiate and physical assistance to complete self-care, personal hygiene, and dressing with appropriate results. [Claimant] has an uncontrolled seizure disorder and the only support he receives is from me. I am getting older and tired due to my own medical conditions. I need help for myself too. Their behaviors related to these conditions are becoming more frequent. I am not able to face them alone. [Claimant] would benefit from the services of the regional center. His seizure started before he was 18, but he wasn't on seizure

medication since they weren't severe when he was younger and my mom helped me with him when I worked. I ask you to please review my son's case. I appreciate it very much.

(Diction and grammar original.)

VMRC Intake Assessment

6. Mother referred Claimant to VMRC for services and supports due to a diagnosis of epilepsy. Rebecca Gile, an intake coordinator with VMRC, met with Claimant and Mother in their home to perform an intake assessment on April 4, 2024. Claimant and Mother were the primary sources of Ms. Gile's information. Miryam Enriquez served as the Spanish interpreter. Ms. Gile completed a VMRC Intake Assessment at the conclusion of her evaluation.

7. Mother reported she was told Claimant was not developing appropriately in utero, and it was recommended that she terminate her pregnancy. She declined to do so. Claimant was born full-term at 40 weeks gestation by spontaneous vaginal delivery. Mother could not recall his birth weight or length. He remained in the neonatal intensive care unit for the first month due to jaundice, respiratory issues, and needing a feeding tube.

8. Mother described Claimant as frequently sick during childhood. He was prescribed eyeglasses at age 14. He currently has seizures approximately once a month, and they usually last three minutes. When a seizure starts, he begins sweating and wants to stand up and run. Mother initially stated the seizures began at age 21 (2017/2018), then age 15 (2011/2012), and finally age 16 (2012/2013). Claimant has been treating with a neurologist at UC Davis Medical Center in Sacramento, California, monthly since January 2024. Previously, he saw a neurologist in Stockton, California.

His current antiseizure medications include Nayzilam, levetiracetam, and oxcarbazepine.

9. Mother reported that Claimant began complaining about headaches when he was 16 years old. She brought him to San Joaquin General Hospital, and they found a brain tumor. He underwent surgery to remove the tumor, but the surgery was aborted because of the tumor's proximity to the optic nerve. Mother said surgery occurred in 2017, but Claimant would have been 20 or 21 years old at the time.

10. Ms. Gile rated Mother's reliability as a historian as only a "fair." She wrote in her Intake Assessment:

Mother provided medical and developmental histories. It is unknown to what degree [Claimant's] adaptive skills are impaired by his seizure disorder versus his depression. Mother also reported different ages at which seizures started. She initially reported age 21, then reported 15 and 16. She and [Claimant] reported he had an attempted surgery to remove a brain tumor in 2017. He would have been 21 at the time.

11. Ms. Gile documented her overall impressions of Claimant's evaluation as follows:

[Claimant] is a 27 year old man who has seizures, approximately one per month lasting three minutes. The type of seizure is unknown. It is unclear when he was first diagnosed with epilepsy as his mother has provided varying reports of date of onset (age 21, 15, and 16). She further

shared [Claimant] has a brain tumor that was identified as a teenager at San Joaquin General Hospital and surgery was attempted but aborted due to the proximity to the optic nerve. Mom's report of [Claimant's] age at time of surgery is also unclear. She reported he was 16-17, and then indicated it occurred in 2017 and he would have been 21 years of age at that time. These represent concerns as mom indicates decline in functioning did not occur until after [Claimant] had his surgery. Medical records are needed to substantiate whether [Claimant] had an eligible condition prior to the age of 18 and whether that condition was substantially handicapping. [Claimant] has no history of special education but did receive his diploma as an adult through a credit recoupment program. Mom shared this was due to behavioral difficulties in high school. Medical and educational records are needed at this time before determining if any additional testing is appropriate.

(Grammar original.)

Ms. Gile recommended obtaining medical and school records, considering basic psychological testing versus adaptive testing, and, if Claimant is found eligible, providing case management and exposure supportive services such as vocational training/day program and independent living services.

VMRC's Eligibility Review Team's Evaluation

12. VMRC convened an eligibility review team to review Ms. Gile's Intake Assessment and available records to determine Claimant's eligibility for regional center services and supports. The team consisted of Felipe Dominguez, M.D., Sandra Cortez, Psy.D., and Ms. Gile.

13. After reviewing all available records, Dr. Dominguez opined Claimant has a seizure disorder, secondary to a traumatic brain injury. Additionally, he suffered a cerebral hemorrhage that required neurosurgery. These conditions did not occur until December 2018 when he was 22 years old. Dr. Dominguez further opined Claimant has deficits with self-direction, capacity for independent living, and economic self-sufficiency, but it is not clear if the deficits are related to the aforementioned medical conditions or his major depressive illness, which was diagnosed after 2018. Dr. Dominguez concluded Claimant is not eligible for regional center services and supports. Dr. Cortez and Ms. Gile agreed with Dr. Dominguez.

Hearing Testimony

**CLAIRE LAZARO, M.D., D.N.P., M.P.H., M.S.N., A.P.R.N.-C.N.P.,
P.H.N., C.C.R.N., N.P.-C., B.S.N.**

14. Dr. Lazaro is VMRC's Clinical Director. She has a medical degree, doctorate in nursing practice, master's in public health, and bachelor's in nursing. She is licensed to practice medicine in the Philippines. She is licensed in California as a nurse practitioner, certified public health nurse, certified critical care nurse, and registered nurse. Dr. Lazaro has worked for VMRC for close to six years.

15. Dr. Lazaro explained there is a three-pronged test for eligibility for regional center services and supports under the Lanterman Act. The consumer must have a developmental disability, which constitutes a substantial disability, and which originates prior to his 18th birthday. Dr. Lazaro also explained that, although Dr. Dominguez determined Claimant's seizure disorder, secondary to a traumatic brain injury, constitutes a developmental disability (epilepsy) that significantly limits his self-direction, capacity for independent living, and economic self-sufficiency, the disability did not occur until he was 22 years old. Therefore, Claimant does not meet the third prong of eligibility.

16. Prior to hearing, Mother provided VMRC 82 documents consisting of additional medical records she obtained after the eligibility review team's determination. Dr. Lazaro reviewed all 1,063 pages produced, as well as the records the eligibility review team considered.

17. The earliest records were from April and May 2017 when Claimant was 20 years old. Most were dated later. None of the records documented him suffering seizures prior to his 18th birthday. Indeed, several documented the opposite. On April 30, 2017, Claimant sought treatment for a head injury at Dameron Hospital. According to triage notes, he was experiencing right facial pain after falling down the stairs. While taking Claimant's medical history, the healthcare provider asked about, and Claimant denied, any history of seizures. He was 20 years old at the time.

18. The following month, Claimant sought treatment from Community Medical Centers (CMC). The history of present illness indicated he was following up to a visit to Dameron Hospital's Emergency Department due to headaches the day before. His diagnosis upon discharge from the hospital was "headache secondary to bilateral small hygromas/cystic brain lesion, probable arachnoid cyst confirmed by CT

imaging of the head.” The CMC healthcare provider asked about, and Claimant denied, any history of seizures. The review of systems also indicated he was “Negative” for seizures.

19. Two years later, Claimant sought treatment from CMC. He was 23 years old. The healthcare provider documented the history of present illness as a follow-up to being discharged from San Joaquin General Hospital two days prior. Claimant was admitted to the hospital for six days after falling and dislocating his left hip while suffering a seizure. His diagnoses upon admission were “left hip dislocated, seizure, fall, he had a witnessed seizure in the ER.” His diagnoses upon discharge were “brain tumor, seizure, dislocation, hip fracture L, depression.”

20. The healthcare provider at CMC documented Claimant’s prior medical history as significant for traumatic brain injury, brain tumor, and benign seizures. His “problem list” included traumatic cerebral hemorrhage, traumatic brain injury, and seizure disorder. The date of onset for the first two was noted as “12/03/2018” and for the last as “2018.” Claimant celebrated his 22nd birthday in 2018.

MOTHER

21. Mother tried to obtain Claimant’s medical records from prior to his 18th birthday, but she was unable to. She applied for regional center services and supports because she is getting older, is prediabetic, and has high blood pressure.

22. Mother explained one of her daughters passed away in 2021, her mother passed away the following year, and her other children are married. She lives with one daughter and the daughter’s family. Mother has no one to help her care for Claimant, and she has limited income. She only recently won her appeal for disability benefits for him.

23. Claimant suffered a seizure the day prior to hearing, and Mother brought him to the hospital. Taking him to the hospital and medical appointments is getting more difficult for her and causes her to lose sleep.

Analysis

24. Claimant has the burden of proving his eligibility for regional center services and support. He must prove by a preponderance of the evidence he has a developmental disability, which constitutes a substantial disability, and which originated prior to his 18th birthday. The evidence established Claimant has a seizure disorder, secondary to traumatic brain injury, and cerebral hemorrhage requiring neurosurgery, which constitute a developmental disability (epilepsy). His disability constitutes a substantial disability in self-care, capacity for independent living, and economic self-sufficiency. However, Claimant's disability did not originate prior to his 18th birthday. Indeed, the medical records established it originated when he was 22 years old. As such, he is not eligible for regional center services and supports.

LEGAL CONCLUSIONS

Applicable Burden/Standard of Proof

1. Claimant has the burden of proving he is eligible for VMRC's services and supports by a preponderance of the evidence. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [the party seeking government benefits has the burden of proving entitlement to such benefits]; Evid. Code, § 115 [the standard of proof is preponderance of the evidence, unless otherwise provided by law].) This evidentiary standard requires Claimant to produce evidence of such weight that, when balanced against evidence to the contrary, is more persuasive. (*People ex rel. Brown v. Tri-Union*

Seafoods, LLC (2009) 171 Cal.App.4th 1567.) Claimant must prove it is more likely than not that he is eligible for services and supports. (*Lillian F. v. Super. Ct.* (1984) 160 Cal.App.3d 314, 320.)

Applicable Law

CARE FOR THE DEVELOPMENTALLY DISABLED

2. Under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq., the Lanterman Act), the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the “treatment and habilitation services and supports” to enable such persons to live “in the least restrictive environment.” (Welf. & Inst. Code, § 4502, subd. (b)(1).) The State Department of Developmental Services is charged with implementing the Lanterman Act and is authorized to contract with regional centers to provide the developmentally disabled access to the services and supports needed. (Welf. & Inst. Code, § 4620, subd. (a); *Williams v. State of Cal.* (9th Cir. 2014) 764 F.3d 1002, 1004.)

ELIGIBILITY FOR REGIONAL CENTER SERVICES AND SUPPORTS

3. Eligibility for regional center services and supports is dependent on the person having a developmental disability, that originated before his 18th birthday, and constitutes a substantial disability. (Welf. & Inst. Code, § 4512, subd. (a); Cal. Code Regs., tit. 17, § 54000, subd. (b)(1)–(3).) Under the Lanterman Act, developmental disability includes intellectual disability, cerebral palsy, epilepsy, autism, and disabling conditions “closely related to” intellectual disability or that “require treatment similar to” that required for intellectual disability. (Welf. & Inst. Code, § 4512, subd. (a); Cal. Code Regs., tit. 17, § 54000, subd. (a).)

4. A "substantial disability" is one that causes the person "significant functional limitations in three or more of the following areas of major life activity . . . as appropriate to the age of the person: [¶] (A) Self-care. [¶] (B) Receptive and expressive language. [¶] (C) Learning. [¶] (D) Mobility. [¶] (E) Self-direction. [¶] (F) Capacity for independent living. [¶] (G) Economic self-sufficiency." (Welf. & Inst. Code, § 4512, subd. (l)(1); see Cal. Code Regs., tit. 17, § 54001, subd. (a)(2)(A)–(G).)

Conclusion

5. Claimant did not prove his epilepsy originated prior to his 18th birthday. Indeed, the evidence established it did not originate until he was 22 years old. Therefore, he did not prove his eligibility for regional center services and supports, and his appeal should be denied.

ORDER

Claimant's appeal from Valley Mountain Regional Center's October 25, 2024 Notice of Action denying his application for regional center services and supports is DENIED.

DATE: March 17, 2025

COREN D. WONG
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.