

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER, Service Agency

DDS No. CS0024614

OAH No. 2025020866

DECISION

Kimberly J. Belvedere, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on June 30, 2025.

Senait Teweldebrahn, Fair Hearings Representative, Fair Hearings and Legal Affairs, represented Inland Regional Center (IRC).

Claimant represented himself. Claimant requested a Spanish interpreter prior to the hearing and two interpreters appeared at hearing ready to provide interpretation services. Once the hearing began, claimant, who spoke clear and fluent English, waived

his right to an interpreter and said he wanted the hearing held in English. The interpreters were dismissed and the hearing proceeded in English.

Oral and documentary evidence was received. The record was closed, and the matter submitted for decision on June 30, 2025.

ISSUES

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act) as a result of a substantial disability attributable to epilepsy; cerebral palsy; autism spectrum disorder (autism); intellectual developmental disorder (IDD);¹ or, a disability closely related to IDD or that requires treatment similar to that required for individuals with IDD (the “fifth category”)?

¹ The Lanterman Act was amended long ago to eliminate the term “mental retardation” and replace it with “intellectual disability,” as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). The more current DSM-5, text revision (DSM-5-TR) no longer uses the term “intellectual disability” and instead refers to the condition as IDD. Many of the regional center forms have not been updated to reflect this change, and during testimony, all of the terms were used interchangeably. Accordingly, for purposes of this decision, as well as all admissible documentary evidence, “mental retardation,” “intellectual disability,” and “IDD” mean the same thing.

SUMMARY

Although claimant established that he suffers from multiple psychiatric conditions, claimant failed to establish that he is substantially disabled as a result of a qualifying developmental disorder. Claimant's appeal of IRC's determination that he is not eligible for services is denied.

FACTUAL FINDINGS

Jurisdictional Matters

2023 DECISION

1. On April 10, 2023, IRC sent claimant a Notice of Action stating that no intake services could be provided because a review of the records indicated that claimant did not have a "substantial disability" as a result of IDD, autism, cerebral palsy, epilepsy, or a disabling condition under the fifth category, and claimant was not eligible for IRC services. At that time, claimant was only seeking eligibility under the categories of autism, IDD, and the fifth category.

2. Claimant submitted documents to IRC and an administrative hearing was held. Following that hearing, which included virtually identical documents as the ones submitted in this case, OAH issued a Decision in OAH Case Number 2023051035 finding claimant ineligible for regional center services.

CURRENT APPEAL

3. On February 7, 2025, IRC sent claimant a Notice of Action stating that no intake services could be provided because a review of the records indicated that claimant did not have a “substantial disability” as a result of IDD, autism, cerebral palsy, epilepsy, or the fifth category, and claimant was not eligible for IRC services.

4. On February 20, 2025, claimant appealed IRC’s decision and wrote (errors in original):

I have cerebral palsy, Epilepsy, autism speech language impairment, language impairment, intellectual disability, partially blind, schizoaffective disorder, ADHD, vision impairment, hearing impairment, learning impairment, mobility impairment, lupus syndrome, multiple sclerosis, PTSD, spina bifida, extrapyramidal and movement disorder, autism spectrum disorder, mobility disabilities, childhood trama, ended my addiction in year 1999.

5. Following an informal meeting to discuss claimant’s appeal, IRC sent claimant a letter dated March 10, 2025, adhering to its ineligibility determination. Although the current case was based on virtually all of the same records claimant submitted in the 2023 case, claimant’s case was allowed to proceed without applying a res judicata effect regarding autism, IDD, or the fifth category. In other words, all conditions were considered anew in this case.

Applicable Diagnostic Criteria

AUTISM SPECTRUM DISORDER

6. The DSM-5-TR identifies criteria for the diagnosis of autism spectrum disorder. The diagnostic criteria include persistent deficits in social communication and social interaction across multiple contexts; restricted repetitive and stereotyped patterns of behavior, interests, or activities; symptoms that are present in the early developmental period; symptoms that cause clinically significant impairment in social, occupational, or other important areas of function; and disturbances that are not better explained by intellectual disability or global developmental delay. An individual must have a DSM-5-TR diagnosis of autism spectrum disorder to qualify for regional center services based on autism.

INTELLECTUAL DEVELOPMENTAL DISORDER

7. The DSM-5-TR contains the diagnostic criteria used for IDD. The essential features of IDD are deficits in general mental abilities and impairment in everyday adaptive functioning, as compared to an individual's age, gender, and socio-culturally matched peers. Intellectual functioning is typically measured using intelligence tests. Individuals with IDD typically have IQ scores in the 65-75 range (unless an individual is African American, in which case IQ results are not considered). In order to have a DSM-5-TR diagnosis of IDD, three diagnostic criteria must be met. The DSM-5-TR states in pertinent part as follows:

[IDD] is a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. 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 sociocultural 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.

ELIGIBILITY UNDER THE FIFTH CATEGORY

8. Under the fifth category the Lanterman Act states that regional center assistance may be provided to individuals with a disabling condition closely related to IDD or that requires similar treatment to an individual with IDD, but does not include other handicapping conditions that are “solely physical in nature.” (Welf. & Inst. Code, § 4512, subd. (a).) A disability involving the fifth category must also have originated before an individual turns 18 years old, must continue or be expected to continue indefinitely, and must constitute a substantial disability.

9. In *Mason v. Office of Administrative Hearings* (2001) 89 Cal.App.4th 1119, the appellate court held that the fifth category condition must be very similar to IDD,

with many of the same, or close to the same, factors required in classifying a person as meeting the criteria for IDD. Another appellate decision has also found that eligibility may not be based solely on a person's adaptive functioning; it must include a cognitive component. (*Samantha C. v. State Department of Developmental Services* (2010) 185 Cal.App.4th 1486.) Further, while a person who suffers from mental health or other psychological conditions is not per se disqualified from regional center eligibility under the fifth category, the individual's condition must still be similar to IDD, or the individual must still require treatment similar to a person with IDD. (*Id.* at p. 1494.) In making those determinations, regional centers refer, in part, to the Association of Regional Center Agencies (ARCA) guidelines, discussed below.

Functioning Similar to a Person with IDD

10. A person functions in a manner similar to a person with IDD if the person has significant sub-average general intellectual functioning that is accompanied by significant functional limitations in adaptive functioning. Intellectual functioning is determined by standardized tests. A person has significant sub-average intellectual functioning if the person has an IQ of 70 or below. Factors a regional center should consider include: the ability of an individual to solve problems with insight, to adapt to new situations, and to think abstractly and profit from experience. If a person's IQ is above 70, it becomes increasingly essential that the person demonstrate significant and substantial adaptive deficits and that the substantial deficits are related to the cognitive limitations, as opposed to a medical or some other problem. It is also important that, whatever deficits in intelligence are exhibited, the deficits show stability over time.

11. Significant deficits in adaptive functioning are established based on the clinical judgements supplemented by formal adaptive behavioral assessments

administered by qualified personnel. Adaptive skill deficits are deficits related to intellectual limitations that are expressed by an inability to perform essential tasks within adaptive domains or by an inability to perform those tasks with adequate judgement. Adaptive skill deficits are not performance deficits due to factors such as physical limitations, psychiatric conditions, socio-cultural deprivation, poor motivation, substance abuse, or limited experience.

Treatment Similar to a Person with IDD

12. In determining whether a person requires treatment similar to a person with IDD, a regional center should consider the nature of training and intervention that is most appropriate for the individual who has global cognitive deficits. This includes consideration of the following: individuals demonstrating performance based deficits often need treatment to increase motivation rather than training to develop skills; individuals with skill deficits secondary to socio-cultural deprivation but not secondary to intellectual limitations need short-term, remedial training, which is not similar to that required by persons with IDD; persons requiring rehabilitation may be eligible, but persons primarily requiring rehabilitation are not typically eligible as the term rehabilitation implies recovery; individuals who require long-term training with steps broken down into small, discrete units taught through repetition may be eligible; and the type of educational supports needed to assist children with learning (generally, children with IDD need more supports, with modifications across many skill areas).

CEREBRAL PALSY

13. Cerebral palsy is a brain disorder that appears in infancy or early childhood and permanently affects body movement and muscle coordination. Cerebral palsy is caused by changes in the developing brain that disrupt its ability to control

movement and maintain posture and balance. The hallmark symptom of cerebral palsy is problems with movement and posture. Symptoms and how serious they are vary person to person. There is a wide variety of symptoms that manifest in persons with cerebral palsy, and the following are examples of those symptoms: lack of muscle coordination when performing voluntary movements (ataxia); stiff or tight muscles and exaggerated reflexes (spasticity); weakness in one or more arm or leg; unusual walking style (gait)—including walking on the toes, a crouched gait, or a “scissored” gait; stiff or floppy muscle tone; tremor or random involuntary movements (dystonia); delays in reaching movement milestones; and difficulty with precise movements (fine motor skills) such as writing or buttoning a shirt. Cerebral palsy is diagnosed in a number of ways, including developmental monitoring, developmental screening, and medical evaluations throughout the developmental years. There is no cure for cerebral palsy, but interventions can help with quality of life.

EPILEPSY

14. No medical excerpts or evidence were provided regarding diagnostic criteria for epilepsy. However, through one of IRC’s experts, Desiree Nycholat, M.D., the following definition was provided: Epilepsy or seizure disorder is an abnormal release of electrical activity in the brain, and the effect of that release can affect people in different ways. Not all seizures can result in functional impairment and not all seizures are substantially handicapping. Medications can help control seizures and the effect of the same.

OTHER CONDITIONS

15. IRC submitted excerpts from the DSM-5-TR concerning conditions that claimant has been diagnosed with, according to medical records. Those conditions

include: generalized anxiety disorder, bipolar and related disorders, major depressive disorder, post-traumatic stress disorder (PTSD), schizoaffective disorder, and schizophrenia. None of those conditions qualify a person for regional center services, but can coexist with a qualifying condition. All excerpts were read and considered.

Substantial Disability Determination

16. In addition to having a qualifying developmental disorder, a person seeking eligibility must also be substantially disabled as a result of that qualifying condition. California Code of Regulations, title 17, sections 54000 and 54001, set forth the criteria for substantial disability. Under the regulations, in order to have a substantial disability for eligibility purposes, a person must have a significant functional limitation in three or more areas of a major life activity, as appropriate for the person's age, in the areas of: communication (must have significant deficits in both expressive and receptive language), learning, self-care, mobility, self-direction, capacity for independent living, and economic self-sufficiency.

17. ARCA published clinical recommendations to be of assistance in making substantial disability determinations within the meaning of applicable law.

- Regarding self-care, a person should have significant functional limitations in the ability to acquire or perform basic self-care skills such as personal hygiene, grooming, and feeding (chewing and swallowing, eating, drinking, use of utensils).
- Regarding receptive and expressive language, a person must have significant limitations in both the comprehension and expression of verbal and/or nonverbal communication resulting in functional impairments. There also must be impairment in both receptive and expressive communication, not

just one area. Some factors to consider are whether the person has: significant difficulty understanding a simple conversation; needing information to be rephrased to a simpler level in order to enhance understanding; significant difficulty following directions (not due to general noncompliance); significant difficulty understanding and interpreting nonverbal communication (i.e., gestures, facial expressions); significant difficulty communicating information; significant difficulty participating in basic conversations (following rules for conversation and storytelling, tangential speech, fixation on specific topics); atypical speech patterns (jargon, idiosyncratic language, echolalia, significant impairment of the ability to communicate).

- Regarding learning, a person must be substantially impaired in the ability to acquire and apply knowledge or skills to new situations even with special intervention. Things to consider include: a person's general intellectual ability; academic achievement levels, retention (short and/or long-term memory); and reasoning (the ability to grasp concepts, to perceive cause and effect relationships, ability to generalize information and skills from one situation to another).
- Regarding mobility, a person must have significant limitations with independent ambulation. Things to consider include: the need for crutches, a walker or wheelchair; gait abnormalities; coordination problems (unable to walk long distances due to fatigue from the significant effort involved in ambulating, difficulty negotiating stairs or uneven ground).
- Regarding self-direction, a person must have significant impairment in the ability to make and apply personal and social judgements and decisions.

Things to consider include: emotional development (routinely has significant difficulty coping with fears, anxieties, or frustrations, severe maladaptive behaviors, such as self-injurious behavior); interpersonal relations (has significant difficulties establishing and maintaining relationships with family or peers, social immaturity, marked difficulty protecting self from exploitation); and personal independence (significant difficulty maintaining daily schedules, responding appropriately in an emergency, taking medications as directed).

- Regarding capacity for independent living, a person must be unable to perform age-appropriate independent living skills without the assistance of another person. Things to consider include: significant difficulty performing age-appropriate household tasks; significant difficulty managing domestic activities (grocery shopping, laundry, home repair, etc.); significant need to be supervised; significant difficulty with money management (using bank accounts, making purchases, and budgeting); and significant difficulty taking the basic steps necessary to obtain appropriate health care (obtaining medication refills, obtaining medical attention when needed).
- Regarding economic self-sufficiency, a person must lack the capacity to participate in vocational training or obtain and maintain employment without significant support.

Summary of Pertinent Records

18. Claimant was born in 1976 and is currently 49 years old.
19. No records were provided that covered claimant's developmental years.

20. No records were provided concerning special education services that may have been provided to claimant.

21. Hundreds of pages of medical records were provided. The following is a summary of pertinent portions of those records.

22. On July 1, 2000, when claimant was 24 years old, he was admitted to Riverside County Regional Medical Center for a single gunshot wound to the left side of his face, with the bullet lodged inside, having entered just under his left eye. Claimant was treated and released back to jail.

23. A discharge summary from September 9, 2001, when claimant was 25 years old, showed claimant was diagnosed with major depression, severe, recurrent, with psychotic features. No corresponding testing or other assessment data was provided showing how that conclusion was reached. This condition does not qualify a person for regional center services. Claimant was released back to jail.

24. Records from Patton State Hospital: Claimant was admitted on November 9, 2001, when he was 24 years old, for psychiatric problems. Claimant had made terrorist threats and also suffered from hallucinations, which claimant told medical staff he had been experiencing since age 13. Claimant had been in jail for some time, and reported that medications made him feel better. According to a psychiatric evaluation conducted at the time of his admission, his "cognition and comprehension" were appropriate. The examiner felt claimant was exaggerating his symptoms but gave him the benefit of the doubt. On discharge, dated April 2, 2002, claimant was given a provisional diagnosis under the *Diagnostic and Statistical Manual of Mental Disorders 4th Edition* (DSM-4) of schizoaffective disorder and polysubstance dependence. Neither of these diagnoses qualifies a person for regional center services.

25. A discharge summary from the Riverside County Regional Medical Center, Department of Mental Health, dated June 7, 2005, showed claimant had been brought to the mental health unit by police for an involuntary psychiatric hold (5150 hold) due to being a danger to himself or others. Claimant had apparently been talking to himself, hearing voices, and thought that his family was poisoning him. Claimant exhibited confusion and paranoid thoughts. On discharge, claimant was diagnosed with psychosis and "rule out" PTSD. No corresponding testing or other assessment data was provided showing how that conclusion was reached other than by history or clinical observation. Neither of these diagnoses qualifies a person for regional center services.

26. A discharge summary from the Riverside County Regional Medical Center, Department of Mental Health, dated November 5, 2007, showed claimant was again brought to the mental health unit by police for a 5150 hold due to being a danger to himself or others. Claimant had apparently been fighting with family and felt electrical devices were being used to sexually assault him. The "past psychiatric history" portion of the records indicate claimant has a "history of treatment" for schizophrenia. The record reflects claimant was taking a variety of anti-psychotic medications. Claimant displayed delusional thoughts. On discharge, he was diagnosed with schizophrenia, paranoid type. No corresponding testing or other assessment data was provided showing how that conclusion was reached other than by history or clinical observation. That diagnosis does not qualify a person for regional center services.

27. An adult mental health assessment by Riverside County Department of Mental Health, dated April 11, 2016, reported that claimant was diagnosed with schizophrenia, paranoid type. Claimant reported that he had been diagnosed with

ADHD as a child, received mental health treatment as a child, and had multiple psychiatric hospitalizations. He reported sometimes having issues distinguishing between reality and delusions, and was on multiple psychotropic medications. Claimant reported panic attacks, and at one point thought he was an alien or a “walking dead” person.

28. A mental health assessment report from the Riverside University Health System, dated April 17, 2017, reflected a diagnosis of schizophrenia, but did not contain any assessment or indicate if that was by history or observation. That diagnosis does not qualify a person for regional center services.

29. Riverside University Health System records, covering the period of 2018 to 2023, were similar to the psychiatric diagnoses and issues noted above. The records also indicated claimant had foot pain, and diagnoses of ADHD, PTSD, and bipolar disorder type 1. One of the records indicated claimant reported being pushed off a roof as a child and landing on his feet. Claimant requested a cane to be able to walk better. On examination, the physician found some abnormalities in the ankle joint, but everything noted was solely physical as opposed to mobility issues due to a developmental disorder.

30. A neuropsychological screening report by Emin Gharibian, Psy.D., dated May 22, 2020, when claimant was 44 years old, contained several assessments: Under the Wechsler Adult Intelligence Scales 4th Edition test (WAIS-IV), claimant’s verbal comprehension index was 63 - extremely low to moderately impaired range; his perceptual reasoning index was 81 - moderately impaired or low average range; and his working memory index was 69 – extremely low range. Under the Adaptative Behavior Assessment System 3rd Edition test (ABAS-3), claimant’s global adaptive composite score was 81 – mildly impaired; his conceptual composite score was 78 –

mildly impaired; his social composite score was 66 – moderately impaired; and his practical composite score was 87 – average. He also scored in the average range for home living, self-care, and self-direction. Claimant reported that he had been diagnosed with autism and IDD while in the California Youth Authority as a child, but, claimant did not provide any documents to Dr. Gharibian to support that claim. Dr. Gharibian diagnosed claimant with IDD and schizophrenia. However, a previous regional center expert who testified in the 2023 matter disagreed with the IDD diagnosis, correctly indicating that claimant’s high adaptive scores preclude a diagnosis of IDD.

31. A neurobehavioral status exam of claimant was conducted by Jacob Jones, Ph.D., of Gunn Psychological Services, on March 21, 2023, and April 12, 2023. Dr. Jones diagnosed claimant with PTSD, major depressive disorder with anxious features, and borderline intellectual functioning (full scale IQ score was 74). Dr. Jones also found that claimant’s ABAS-3 test results were in the low average, average and high average ranges in all areas of adaptive functioning, which showed no significant functional limitations.

32. A neuropsychological screening report by Scott Su, Ph.D., dated February 21, 2022, assessed that claimant was diagnosed with PTSD, major depressive disorder with anxious features, and borderline intellectual functioning. IRC’s staff psychologist, Ruth Stacy, Psy.D., noted that Dr. Su’s assessment demonstrated claimant’s non-verbal skills were significantly stronger than his verbal skills, and claimant’s adaptive functioning was below average in the range of scores from 80 to 88 in the indices of general adaptive composite, conceptual, social and practical.

33. A letter from Kim-Thy Hoang Nguyen, D.O., dated January 4, 2024, indicated that it is her professional opinion claimant has autism, borderline intellectual

functioning, schizophrenia, major depressive disorder, and PTSD, and is need of "general relief." No assessments are attached to the letter and Dr. Nguyen does not indicate how these diagnoses were reached (by history, clinical assessment, or self-reporting). As such, this letter was of little value.

34. A letter from Ty Jones, Psy.D., dated January 3, 2024, indicated claimant reported depression, anxiety, trauma, psychosis, moodiness, and had been referred to him for treatment. Dr. Jones wrote that it was his professional opinion that claimant has borderline intellectual functioning, schizophrenia, major depressive disorder, and PTSD. No assessments are attached to the letter and Dr. Jones does not indicate how these diagnoses were reached (by history, clinical assessment, or self-reporting). As such, this letter was of little value.

35. An MFI Recovery Center Adult Assessment document dated April 3, 2024, indicated claimant was reporting symptoms of hallucinations, paranoia, and delusions. Claimant recounted past trauma from when he was in jail in 2008 and tried to kill himself due to being abused by other inmates. Claimant reported having panic attacks and having the ability to communicate with his girlfriend by telepathy and move objects with his mind. Nothing in the document is suggestive of any developmental disorder or that would qualify claimant for services under the fifth category.

36. A letter from Amy Lynn Marquez Daguio, M.D., dated May 29, 2025, indicated claimant has a "recent" diagnosis of autism, bipolar disorder, PTSD, anxiety, and is under the care of psychiatry. No assessments are attached to the letter and Dr. Daguio does not indicate how these diagnoses were reached (by history, clinical assessment, or self-reporting). As such, this letter was of little value.

37. A variety of records from Gunn Psychological Services reflect “reviewed problems” of schizoaffective disorder, delusional disorder, posttraumatic stress disorder, extrapyramidal movements, and high functioning autism. No assessments are attached and it does not indicate if those are diagnoses that were reached based on testing, self-reporting, or by history. Regardless, none of those conditions qualify a person for regional center services, and given that “high functioning” autism is not substantially disabling, that condition does not qualify a person for regional center services.

38. Records from Optum Behavioral Care of California (Optum) dated January 21, 2025, indicate claimant is receiving individual psychotherapy for autism. However, prior to that document, there is another document dated December 13, 2024, indicating claimant’s individual psychotherapy was for schizoaffective disorder, PTSD, and extrapyramidal and movement disorder. None of the records from Optum contain assessments, evaluations, screenings, or any data to show how those diagnoses were reached or where they came from. As such, these records were of little value.

39. Documents were received in evidence showing many different business entities owned and operated by claimant over the years, most of which were affiliated with spreading good will throughout the community of Moreno Valley. Claimant also spearheaded a tattoo removal project for youth and volunteered over 300 hours at a local hospital.

Testimony of IRC Experts

TESTIMONY OF RUTH STACY, PSY.D., IN THE 2023 CASE

40. Dr. Stacy testified in the 2023 case that concluded claimant was not eligible for regional center services. Her testimony, which is based primarily on the same records provided in this case, is summarized as follows: She is a licensed clinical psychologist and has served as staff psychologist at IRC since 2015. Dr. Stacy has been on the IRC staff in various capacities since 1990, and previously worked as a consumer services coordinator, senior consumer services coordinator, and senior intake counselor. Her duties as staff psychologist include reviewing records and conducting psychological assessments to assist IRC's multidisciplinary eligibility team to determine if potential clients are eligible for services.

41. Dr. Stacy explained that in order to be eligible for regional center services under the Lanterman Act, claimant must have a developmental disability of autism, epilepsy, cerebral palsy, IDD, or a disabling condition found to be closely related to IDD or to require treatment similar to that for individuals with IDD (the fifth category, originating before claimant attains 18 years of age and that continues, or is expected to continue, indefinitely and constitutes a substantial disability for claimant). In order to determine whether a diagnosis of a developmental disability is substantially disabling, so as to qualify for regional center services, there must be significant functional limitations in at least three of the seven life activities listed in California Code of Regulations, section 54001, which are: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. Conditions precluded from qualifying conditions are conditions that are solely psychological, solely physical, psychiatric, or specific learning disabilities.

42. Regarding the documents referenced above that were submitted in both the 2023 and 2025 case (in paragraph 39), Dr. Stacy testified that the types of activities related to the documents above are not typically associated with persons who are diagnosed with IDD. A letter from the Department of Motor Vehicles was also submitted into evidence, which indicated claimant attempted to reinstate his driver's license by submitting a neuropsychiatric assessment, but he was notified that he needed to first complete a course for his conviction for driving under the influence. Dr. Stacy remarked that the vast majority of regional center clients are not able to ever obtain a driver's license.

43. An IRC determination, dated July 31, 2023, concluded that claimant was not eligible for regional center services, as he had no history of developmental disability prior to age 18; he does not have significant functional limitations; and he was treated for mental health conditions such as schizophrenia. The IRC determination also addressed that claimant had taken medication for epilepsy, but there was no indication this condition caused significant functional limitations, his records from Patton State Hospital did not list epilepsy as a medical condition and he had no records prior to age 18 that listed epilepsy as a diagnosis.

44. Dr. Stacy testified there has to be evidence of the occurrence of IDD prior to the age of 18, although the diagnosis of IDD can be after the age of 18. Claimant's record demonstrates he had a history of schizophrenia and drug use prior to age 18, and a history of hallucinations beginning at the age of eight. Schizophrenia is not a condition that qualifies a person for regional center services.

45. Dr. Stacy assessed that based on the totality of the evidence in the record, it is clear that claimant does not meet the criteria for significant functional limitations, and therefore does not meet the criteria for IDD. Dr. Stacy also assessed

there was no evidence in the record that claimant had ever been tested for autism spectrum disorder. As such, Dr. Stacy opined that claimant does not meet the eligibility criteria for the regional center.

TESTIMONY OF IRC EXPERTS IN CURRENT CASE

46. Dr. Miller-Sabouhi is a staff psychologist at IRC. Dr. Miller-Sabouhi holds a Ph.D. in psychology, a Master of Science degree in psychology, and a Bachelor of Arts in psychology. She has been a licensed psychologist since 2013. As a staff psychologist at IRC, a position she has held since 2016, Dr. Miller-Sabouhi conducts psychological evaluations of children, adolescents, and adults to determine eligibility for regional center services under the Lanterman Act. Prior to serving as a staff psychologist at IRC, Dr. Miller-Sabouhi worked as a clinical psychologist and clinical supervisor in different settings, where she conducted psychological evaluations of individuals, engaged in psychotherapy and family therapy services to adults and children, and conducted both counseling and trainings in the field of mental health services, among other things. Dr. Miller-Sabouhi has published in a peer-reviewed journal and received awards during her pre-doctoral study. Dr. Miller-Sabouhi is an expert in the field of psychology, and specifically, in the assessment of individuals for regional center services under the Lanterman Act.

47. Desiree Nycholat, M.D., is part of the eligibility team at IRC that evaluates individuals for epilepsy and cerebral palsy. Dr. Nycholat has been a consulting physician for IRC for seven and a half years. Dr. Nycholat obtained her Doctor of Medicine degree from, and completed her pediatric residency at, Loma Linda University School of Medicine. Dr. Nycholat has been licensed since 2015 and is board-certified in pediatrics. She specializes in caring for children from birth to age 18. Dr. Nycholat is currently an attending physician and part of the faculty at Loma Linda

University Medical Group. Dr. Nycholat is an expert in pediatrics and in determining whether a person with cerebral palsy is eligible for regional center services.

48. Both Dr. Miller-Sabouhi and Dr. Nycholat testified at the hearing. Both doctors correctly summarized the eligibility criteria for regional center services under the Lanterman Act and reviewed the documents received in evidence.

49. Regarding epilepsy, Dr. Nycholat testified that although there is no diagnosis of epilepsy, some of the medical records from the Riverside University Health System dated August 30, 2022, do show claimant self-reported a history of seizures. Apparently, claimant had taken medication as a child for seizures but went off of them as a child and had no issues until recently. In January of 2023, claimant appears to have started medication again for the seizures. Regardless, there is nothing in the records to show claimant has significant functional limitations as a result of the seizures.

50. Regarding cerebral palsy, Dr. Nycholat testified there is no diagnosis of this in any of the records and even though there may have been some reports of foot pain or walking with a cane, there is nothing that shows significant functional limitations in his mobility.

51. Regarding autism, IDD, and the fifth category, Dr. Miller Sabouhi concurred with Dr. Stacy's conclusions in the 2023 case that claimant is not eligible for regional center services under any condition because the records do not demonstrate significant functional limitations in three or more areas of a major life activity attributable to autism, IDD, or the fifth category. Rather, claimant's challenges throughout life appear to be attributable to mental health and psychiatric conditions and not a developmental disorder. There is no evidence any condition existed prior to

the age of 18. Even assuming claimant's gunshot wound to the face somehow affected his brain to the point where he might qualify for the fifth category, claimant was 24 years old at the time that occurred, which is outside the developmental period. Accordingly, claimant is ineligible for services.

52. In sum, both doctors concluded, irrespective of any condition claimant may have, he is not substantially disabled within the meaning of applicable law.

Claimant's Testimony

53. The following is a summary of claimant's testimony from both the 2023 and 2025 hearings. His testimony was, at times, disjointed and rambling; however, he was able to convey what he was trying to say, he was respectful, and polite.

54. Claimant is 49 years old. Claimant received special education services during his educational years from his school district, however he did not provide any evidence to support his contention. He explained that he did not have the paperwork because he came from Los Angeles to San Bernardino in 1995 and there was a flood at his house and the records were all lost.

55. When claimant was a child, he used to jump off the refrigerator and stove and hit his head, which probably caused a brain injury. He would also hit his head on cement.

56. Claimant abused drugs and alcohol earlier in his life and is currently a recovering addict. When he abused drugs, he used marijuana, PCP, speed, and "everything you can think of." He remarked, "this was in the 90s."

57. Claimant wants help from the regional center programs because his parents care for him, but they are sick and he does not know how much longer they

will be with him. He was born a “preemie” and he thinks that is “when all the problems started.” When he was in school, he was placed on medications because he “couldn’t learn and had autism and stuff.” He went to jail when he was eight years old and got out of jail when he was 17 or 18 years old. The court also sent him to a juvenile military-style boot camp, but he got into a fight and “kicked a kid in the head with a steel-toe boot.” Then the court sent him to a “reform school for boys” in East Los Angeles. When he was in jail, he was not given his medication, and instead was given aspirin. He needed to be sent to a mental facility, so he could get help and an education, but he stated, “They didn’t offer me nothing.”

58. Claimant started a “crew” in 1995 in Moreno Valley called Clanton, which was affiliated with the Mexican Mafia (Sureño). It was originally a “crew” but developed into a gang. Claimant was shot in the face in 1999 and that he “got more brain damage.” He stated, “My nerves or something got damaged. Half of my face is paralyzed.” This is when he changed his life around. He started removing his tattoos. In 1999, he changed the gang in 2003 back to a crew and now they are a “working class” or “higher class” gang. He did that because he wanted to study, run his companies, pay taxes, and be able to help and give donations to organizations to help victims of crime. He is a victim and survivor of rape. He wanted people to know that he was no longer in a criminal gang. He wanted to clear his name, so the names of his businesses and a church include his name.

59. Claimant maintains his own bank account but would like to earn more money. Claimant has earned diplomas from Stratford Career Institute in psychology, police science, and security. He would like to work for the Riverside University Health System or construction. He is currently trying to earn another diploma in social work. He survives on social security and food stamps. He is able to shop for himself, feed

himself, and care for himself. He lives with his parents and his mother usually cooks for him and drives him to appointments.

60. Claimant walks with a cane and sometimes uses a wheelchair. He said his mother's car was hit when he was little and that might have messed up his mobility. He is also vision impaired and wears glasses, noting most of his trouble is seeing at night. Claimant said he is also hearing impaired because when he was living at his mother's house as a child someone put a screwdriver in his ear and when he woke up there was blood in his ear. He isn't sure how that happened and thinks maybe someone broke into the house and did it. A few days later, someone broke into the house again and put a screwdriver in his other ear. He has had hearing aids since he was at Patton State Hospital in the 2000s.

61. Claimant did give somewhat confusing testimony when he stated that he "did a tattoo for a minor," so he was sent to prison and "got out in 2003." It is not clear what dates he was in jail and/or prison, and if he was released when he was 17 or 18 years old, and if he returned to jail and/or prison, and then was released again in 2003, which is when he would have been about 27 years old. He testified that he has not had any problems with drugs or alcohol since 1999. However, he also testified that he has been on his medications since 2003, sees a psychiatrist every two months, and receives an injection of Invega² once a month.

² Invega is a brand name for paliperidone, a generic medication, which is an antipsychotic medication that can be used to treat schizophrenia and schizoaffective disorder.

62. Claimant testified that he had been married, and he had problems with relationships. When he got out of jail, he was “like a vegetable.” He stated, “I had to learn everything. I learned my education through the internet . . . people just barely started helping me. I had a lot of problems with the doctors who didn’t help me.” He is a beneficiary of Supplemental Security Income (SSI), and he has Section 8 housing and he lives on his own. However, his parents live nearby. He receives In-Home Support Services (IHSS), and his mother is his IHSS caretaker and picks him up each day. She cooks food for him at her house. He learned about regional center services when his IHSS worker “read [his] paperwork and thought [he] was eligible” for IRC.

LEGAL CONCLUSIONS

Burden of Proof

1. In a proceeding to determine eligibility, the burden of proof is on the claimant to establish he or she meets the eligibility criteria. The standard of proof is a preponderance of the evidence. (Evid. Code, §§ 115; 500.)

Applicable Statutes

2. The Lanterman Act is set forth at Welfare and Institutions Code section 4500 et seq.

3. Welfare and Institutions Code section 4501 states:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important

impact on the lives of their families, neighbors and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance . . .

[¶] . . . [¶]

An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

4. Welfare and Institutions Code section 4512, subdivision (a), defines "developmental disability" as follows:

"Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be

closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

5. Welfare and Institutions Code section 4512 (l)(1) defines "substantial disability" as:

. . . 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:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

6. California Code of Regulations, title 17, section 54000 provides:

(a) 'Developmental Disability' means a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related

to mental retardation or to require treatment similar to that required for individuals with mental retardation.

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

(3) Constitute a substantial disability for the individual as defined in the article.

(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.

(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.

7. California Code of Regulations, title 17, section 54001, subdivision (a), also defines "substantial disability" and requires "the existence of significant functional limitations, as determined by the regional center, in three or more of the . . . areas of major life activity" listed above.

Appellate Authority

8. The purpose of the Lanterman Act is 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." (Welf.& Inst. Code, § 4501; *Association of Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

9. The Lanterman Act enumerates legal rights of persons with developmental disabilities. A network of 21 regional centers is responsible for determining eligibility, assessing needs and coordinating and delivering direct services to individuals with developmental disabilities and their families within a defined geographical area. Designed on a service coordination model, the purpose of the regional centers is to "assist persons with developmental disabilities and their families in securing those services and supports which maximize opportunities and choices for living, working, learning, and recreating in the community." The Department of

Developmental Services allocates funds to the centers for operations and the purchasing of services, including funding to purchase community-based services and supports. (*Capitol People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 682-683.)

Evaluation

10. The information contained in claimant's records, which were reviewed by IRC, Dr. Stacy, Dr. Miller-Sabouhi, and Dr. Nycholat, does not establish by a preponderance of the evidence that claimant suffers from a qualifying developmental disability, originating before he attained 18 years of age and that continued, or was expected to continue, indefinitely, and which constitutes a substantial disability. The opinions provided by IRC experts were not challenged by any opposing experts.

11. Although there were a few instances in the records indicating a diagnosis of a qualifying condition, such as Dr. Gharibian's 2020 diagnosis of IDD and the letters from Optum indicating a diagnosis of autism, there are no corresponding assessments that show claimant meets the DSM-5-TR criteria for either condition. Moreover, those diagnoses were decades beyond claimant's 18th birthday, and there is no history of diagnoses for conditions like autism, IDD, or anything that would qualify claimant under the fifth category, in any of the records prior to the age of 18. Dr. Jones assessed that claimant's WAIS-IV full scale IQ score was 74, which is in the borderline range, which is not consistent with IDD.

12. Claimant does not exhibit any of the typical features of autism as listed in the DSM-5-TR. Further, at least one instance in claimant's records mentions that claimant's autism is "high functioning." This means that, even if claimant does have autism, it is not substantially disabling.

13. Claimant has been treated for years for schizophrenia, schizoaffective disorder, PTSD, major depressive disorder, and other psychiatric conditions. Although these conditions may make it difficult for claimant to function, none of these solely psychiatric conditions qualify a person for regional center services.

14. Moreover, claimant did not show that any of his conditions are closely related to a person with IDD or require treatment similar to a person with IDD. Even if he had proven this, the evidence does not support a finding that claimant is substantially disabled in three or more areas of a major life activity, as required to be found eligible for regional center services.

15. Claimant's activities are also inconsistent with a developmental disability or a person who is substantially disabled. Claimant started a gang, claimant terminated membership in a gang, claimant has obtained multiple diplomas, claimant can care for himself; claimant articulated a desire for a certain kind of job; claimant filed articles of incorporation and maintained multiple businesses; and claimant even filed this appeal and provided records to IRC as requested. All of these things show claimant is not substantially disabled as a result of a qualifying condition.

16. Finally, there is no evidence in the records that claimant suffers from cerebral palsy and although claimant's records do document restarting medications in 2022 for seizures that claimant may have had as a child, no records show claimant had epilepsy or seizures as a child and even if he did, Dr. Nycholat concluded claimant is not substantially disabled as a result of the seizures.

17. Based on all of the above, claimant is not eligible for regional center services.

ORDER

Claimant's appeal from IRC's determination that he is not eligible for regional center services is denied.

DATE: July 11, 2025

KIIMBERLY J. BELVEDERE

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 under Welfare and Institutions Code section 4713, subdivision (b), 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.

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

In the Matter of:

CLAIMANT

and

INLAND REGIONAL CENTER,

Service Agency.

DDS No. CS0024614

OAH No. 2025020866

ORDER ON APPLICATION FOR RECONSIDERATION

An Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) issued a decision in this matter on July 11, 2025. On July 22, 2025, claimant applied to OAH for reconsideration of the decision under Welfare and Institutions Code section 4713. An additional submission by claimant was received on July 23, 2025. The application for reconsideration was timely submitted. OAH gave appropriate notice of the application to Inland Regional Center and the Department of Developmental Services (DDS). The undersigned hearing officer did not hear the matter or write the decision for which reconsideration is requested.

A party may request reconsideration to correct a mistake of fact or law or a clerical error in the decision. Here, claimant seeks reconsideration on the following grounds: the decision found claimant did not have a substantial disability when he has been diagnosed with a substantial disability; claimant has a folding four-wheel walker; claimant was born in 1976 so was 21 years old in July 2000, not 26 as stated in the decision; and he and has been on medications his entire life, not just since 2003.

ANALYSIS

Claimant failed to establish any error in fact or law in the decision. Accordingly, the application for reconsideration must be denied.

ORDER

The application for reconsideration is DENIED.

DATE: July 31, 2025

ADAM L. BERG

Presiding Administrative Law Judge

Office of Administrative Hearings