

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

In the Matter of:

CLAIMANT

and

SAN ANDREAS REGIONAL CENTER, Service Agency.

DDS. No. CS0024962

OAH No. 2025030169

DECISION

Administrative Law Judge Michelle Dylan, State of California, Office of Administrative Hearings, who served as the hearing officer, heard this matter on June 24, 2025, and January 29, 2026, in person in Salinas.

Claimant was represented by his mother who appeared on the first day of hearing and part of the second day of hearing. Claimant was not present at the hearing.

Esmeralda Rivera represented San Andreas Regional Center (SARC or Regional Center).

The record closed and the matter was submitted for decision on January 29, 2026.

ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act (Lanterman Act)?

FACTUAL FINDINGS

Background

1. Claimant recently turned five years old. He lives with his parents in Greenfield. Claimant has been diagnosed with autism spectrum disorder (autism or ASD).

2. Claimant's mother sought regional center services on behalf of claimant on June 7, 2024, under the diagnosis of ASD. Claimant also has a diagnosis of Mixed Receptive-Expressive Language Disorder. On October 14, 2024, SARC's interdisciplinary team, including an intake service coordinator, Stephanie Wilder, and a clinical psychologist, Emilie Cate, Psy.D., conducted an intake social assessment of claimant and obtained and reviewed documents provided by his family. Claimant's parents and claimant were present during the intake process which was held at the SARC Salinas office. Claimant's mother also completed questionnaires. Because claimant was under five years old at the time of the application and assessment, the team evaluated whether he met the criteria for Lanterman eligibility under ASD as well as Provisional eligibility.

3. Azelin A. Ellis, Psy.D., a clinical psychologist and ASD & Clinical Manager at SARC and the team reviewed data from the intake interview, information provided by claimant's family, and diagnostic evaluations, and determined that claimant did not satisfy Provisional eligibility criteria nor Lanterman eligibility criteria under ASD. SARC issued a Notice of Action to claimant's family on February 12, 2025, stating that an eligibility determination assessment, including an observation and record review by the Regional Center, found that claimant does not meet criteria for eligibility as defined by law, and is therefore not eligible for services under the Lanterman Act. Dr. Ellis also sent a letter to claimant's representative dated February 12, 2025, stating that although claimant has a diagnosis of autism, the SARC team determined that claimant does not meet the criteria for any areas of substantial impairment, does not meet Provisional nor Lanterman eligibility criteria, and is not eligible for services under the Lanterman Act. An appeal was submitted on March 4, 2025, challenging SARC's determination.

Regional Center Eligibility Criteria

4. To be eligible for services under the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.), an individual must have a developmental disability that originates prior to age 18; the disability must not be solely physical in nature; the disability must be expected to continue indefinitely; and the disability must constitute a substantial disability for the individual. (Welf. & Inst. Code, § 4512, subd. (a)(1).) A substantial disability is defined as the existence of significant functional limitations in at least three of the following major life activity areas, as appropriate to the age of the individual: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. (*Id.*, subd. (1)(1).) The last two major life activities are generally not taken into consideration when

evaluating a young child such as claimant, because children of that age are not typically capable of living independently and are not expected to be economically self-sufficient.

For children three or four years of age who do not otherwise qualify for full eligibility, the Lanterman Act allows for "provisional eligibility" if the child has significant functional limitations in two or more areas of major life activity. (§ 4512, subd. (a)(2).) A provisionally eligible child will be reassessed before age five to determine whether the child is eligible for ongoing services.

5. The parties agree that claimant has a developmental disability (ASD). Claimant contends that he has significant functional limitations in at least three of the seven listed areas of major life activities. SARC disagrees and contends that he does not demonstrate significant functional limitations in any of the listed areas of major life activities.

ASD Diagnosis

6. Claimant was evaluated by a neurologist in Monterey County, David Huntley, M.D., in April 2024. Dr. Huntley concluded that claimant likely has autism.

7. Claimant was diagnosed with ASD by Barbara Bentley, Psy.D., M.S., E.D., at Stanford Medicine Children's Health on August 14, 2024. He was approximately three and a half years old at the time. Claimant's parents reported concerns about speech and language, learning and attention, difficulty with social skills, and social emotional development. Dr. Bentley noted that claimant showed symptoms of social communication difficulties, evidence of repetitive and restricted behaviors, as well as difficulties with peer friendships, social interactions with new adults, and self-care (toilet training). She noted his strengths as including emerging language abilities,

cooperativeness with familiar adults, better social skills with parents, improvements over time or after therapy, and a committed and supportive family.

8. Dr. Bentley noted that claimant was reported to be a happy, free-spirited child who enjoys his playtime and is willing to try new things. However, he struggles with his language and self-awareness. He qualifies for special education under speech and language delay. During the previous year, he learned how to share and say new words. He also listens to one-part commands. He has a very restrictive diet, eating only foods that are not wet and sticky. He is not toilet trained. He is not able to put his clothes on independently, but he can put his shoes on and undress. He participates in teeth brushing, and uses a fork, spoon, and open cup. When upset or disappointed, he will sometimes cry for up to two hours.

9. During the assessment claimant played with puzzles, blocks, and other toys, and was able to identify and label objects and pictures. He had some strategies to communicate such as the use of single words, hand leading and pointing, but he had reduced eye contact and did not integrate gaze with other strategies to either play or respond to others. Claimant's parents completed the Adaptive Behavior Assessment System for Children, 3rd Edition (ABAS-3). His general adaptive composite score fell in the 2nd percentile, in the extremely low range; his conceptual skills including communication and self-direction fell at the 1st percentile; his social skills fell in the 4th percentile at the low range; and his practical skills which include health and safety and self-care were at the 2nd percentile. On the Behavior Assessment System for Children, 3rd Edition (BASC-3) completed by his parents, his parents reported clinically significant concern for hyperactivity.

10. Dr. Bentley diagnosed claimant with ASD, Level 1, Requiring Support. Dr. Bentley recommended that claimant receive applied behavior analysis (ABA)

therapy, speech and language therapy, an update to his Individual Education Plan (IEP) to reflect eligibility due to autism, and an evaluation by SARC to determine eligibility for regional center services.

Developmental, Social, and Educational History

11. Claimant was evaluated by his local school district and was found to be eligible for special education under the category of speech or language impairment in April 2024. He was offered virtual speech services which he was not able to participate in. Claimant has been receiving speech and language therapy twice a week for a mild to moderate receptive and expressive language impairment through Central Coast Language and Learning. Claimant has made progress toward meeting therapy goals.

12. An evaluation for an IEP dated September 19, 2024, was conducted with the Greenfield Union Elementary School District (District). The evaluation notes that claimant attends preschool within the District. The purpose of the assessment was to evaluate whether claimant qualified for special education under the criteria of autism. The report noted that according to his mother, claimant is very social, likes meeting new people, and does best with routines. With regard to concerns, claimant has difficulty communicating his wants and needs, is a picky eater, and has difficulty with friends due to lack of communication skills. However, he is making progress in speech services and according to his mother since his speech has been improving, he is no longer aggressive at home and is generally happy.

13. On the Childhood Autism Rating Scale-2nd Edition (CARS-2 ST), claimant's mother's ratings of claimant placed him within the range of "minimal to no symptoms of autism spectrum disorder range." However, she rated him as having deficits in areas of communication and social interaction. Her responses on the

Behavior Assessment System for Children, Third Edition (BASC-3) indicated that claimant has significant problems with hyperactivity and social skills. She reported that he needs excessive supervision, is overly active, does not wait his turn, and has difficulty beginning conversations, and using good manners. Claimant scored in the 98th percentile on the puzzle subtest, the only subtest claimant would complete on the Nonverbal Kaufman Assessment Battery for Children, 2nd Edition (Kaufman).

14. Claimant's mother completed the Vineland Adaptive Behavior Scales, Third Edition (Vineland) during the IEP process. Claimant's scores were in the 12th percentile in the Adaptive Behavior Composite which is an overall summary measure of adaptive functioning, 12th percentile in Communication, 16th percentile in daily living skills, 19th percentile in Socialization, and 39th percentile in Motor. It was recommended that the IEP team consider possible eligibility in the area of autism.

15. Claimant was initially assessed for ABA services in October 24, 2024, started ABA therapy in February 2025, and was reassessed in May 2025. The May 2025 report noted that claimant had met some of his treatment goals.

SARC Eligibility Determination

16. At the time of the intake social assessment by Wilder and Dr. Cate on October 14, 2024, claimant was approximately three years and eight months old. Claimant and his parents participated in the assessment and provided information regarding his functioning. Wilder completed a report dated October 16, 2024. It was noted that claimant met most of his milestones on time, with only speech showing delay (first word at 18 months). Claimant's primary language is English. Spanish is also spoken in the home and claimant understands some Spanish. Claimant is ambulatory and has full range of motion of his extremities.

17. It was reported that claimant mostly uses single words to express his needs and wants and can use three-word phrases if guided and highly motivated. He is reported to have 50 to 100 words. His name needs to be called multiple times for him to respond to his parents, and he has to be reminded to make eye contact. He asks for water but does not ask for food for long periods of time. Socially, claimant is reported to be friendly. He approaches other peers at the park, but they often do not include him. When this happens, claimant finds another child to approach. He is very attached to his mother and often checks where she is. He is described as a picky eater, a risk taker, overactive, irritable at times, destructive, and has temper tantrums.

18. Claimant needs assistance with daily living skills such as getting dressed, bathing, and brushing his teeth. He is not toilet trained and does not advise others when he needs to be changed. He is kept in a shopping cart at the store because he runs off. He climbs high surfaces, does not pay attention to his surroundings, and approaches strangers in the community. Parents noted their primary concerns are his ability to be independent, access to services, and that he fell behind due to his pediatrician's lack of awareness of their concerns.

19. During the social intake assessment, claimant easily transitioned from the lobby playroom to the meeting room for the assessment. He played with the puzzle cube in the room. He did not respond to Dr. Cate when she called his name. He walked over to the table and reached for the blocks on the table. Claimant and Dr. Cate built with blocks together. He picked out a red tile after he was asked several times to find the color red. He chose a square magnet tile when Dr. Cate asked him to find a square. He exclaimed "Hey" when he dropped his plushie on the floor. He was able to sing the alphabet and count to 12. He can name colors, animals and some body parts.

20. Dr. Ellis testified persuasively at hearing. She is a licensed psychologist and has worked for SARC for over 10 years. Dr. Ellis is experienced in evaluating children for regional center eligibility, and has extensive experience in determining eligibility for individuals seeking eligibility based on ASD. Dr. Ellis did not personally observe claimant, but she reviewed SARC's file including the social intake assessment and Dr. Cate's notes, documents provided by claimant including the 2024 IEP and diagnosis from Dr. Bentley, spoke with Dr. Cate and Wilder regarding the eligibility determination, and drafted a report dated February 10, 2025.

21. In her report, Dr. Ellis opined:

At this time, there is not enough evidence to find three areas of substantial impairment that can be considered lifelong. [Claimant] was only recently diagnosed with Autism, and he has not had the opportunity to benefit from school services (per notes not currently attending school) or ABA. Recommend his family pursue ABA services and utilize school recommendations. If [claimant] fails to make progress or regresses, I encourage family to share any new information they have so that SARC may review and determine if things have changed.

22. When Dr. Ellis testified at hearing, she had reviewed all the documents submitted into evidence during the hearing. In the opinion of Dr. Ellis, the information available about claimant does not show that he is eligible for Lanterman services under the diagnosis of ASD. Nor does it show that he was provisionally eligible at the time of the assessment.

23. Dr. Ellis emphasized that an eligibility assessment depends on data from multiple sources, not any single instrument or observation. She stated that it is important to gather information about how a child functions in different settings because if a child has a significant impairment, it will typically manifest in multiple settings, such as at home, at school, and in the community. Substantial impairment must also be lifelong. Therefore, it is necessary to see what a young child can learn with time and intervention. Reports over time (such as six months to one year apart) of services such as ABA therapy and IEPs should be reviewed to see if a child's goals are age appropriate as well as whether he is making progress or regressing. Dr. Ellis noted that the most recent IEP in the record is from September 2024, and the most recent ABA report is from May 2025, and may not reflect his current functioning.

24. Dr. Ellis does not dispute claimant's ASD diagnosis, but opines that he does not have significant functional limitations in three or more areas of daily living considered for young children. These areas are assessed considering the age of the child and expectations for that age group. Dr. Ellis testified that for purposes of Lanterman Act eligibility, the Regional Center equates "significant functional limitations" in areas of daily living to the 3rd percentile or lower, and for children claimant's age typically 1 percentile or lower. She noted that it is very difficult to find substantial impairments in areas of daily living for children that are four, five or six years old, because many children in this age group have deficits in multiple areas and are still developing. For children this age, a wide variety of abilities can be within a normal range of development. For example, not dressing or bathing independently as well as delayed or partial toilet training at this age is considered normal.

25. Dr. Ellis noted that claimant's IEP indicated that his mother described him as loving, caring and affectionate, very motivated, eager to learn new things, very

social and likes meeting new people, does not give up easily, is overall very happy, and functions well with routines he likes. This description did not raise concerns of substantial impairment to the team. Dr. Ellis also noted that claimant attended a daycare setting with 20 children in class in Fall 2024, that his longest tantrum at school was eight minutes which is not uncommon for three- and four-year-olds, and that he was noted to be able to play interactively with other children. She also noted that claimant's speech was improving and he was reportedly no longer aggressive at home, and that on the CARS-2ST, claimant's mother rated him as "minimal to no symptoms of autism spectrum disorder range."

26. On the Developmental Profile 4 Parent/Caregiver Interview completed by claimant's mother, most of the scores were in the average range including adaptive behavior, social-emotional, communication, and general development, which is very unusual for a young child considered for services by the Regional Center. Dr. Ellis noted that scores on the Bayley Scales of Infant Toddler Development, 4th Edition (Bayley) referenced in Dr. Bentley's August 2024 report indicated delays. However, Dr. Ellis emphasized that the Bayley is not an IQ test, cannot be used to determine future functionality, that the Regional Center would need to see how a child progresses over time before determining eligibility, and that in this case claimant has been making progress in therapy.

27. Dr. Ellis opined that while the scores that claimant's mother provided on the Vineland for the school district suggest that claimant needs assistance, they do not indicate substantial impairment for purposes of the Lanterman Act. She also noted that for Regional Center clients, they typically do not see much progress or growth, because substantial impairments are expected to be lifelong. Dr. Ellis opined that

claimant appeared to be making consistent progress which you would typically not see in a child with substantial impairment.

28. Dr. Ellis also noted that an ABAS completed by claimant's mother for the SARC clinical team in October 2024 (scaled scores of 1 (extremely low) to 6 (below average) showed much lower scores than she previously rated him in September 2024 and July 2024 (scaled scores of 1 (extremely low) to 9 (average)). She opined that this inconsistency is extremely rare and typically not indicative of substantial impairment. Dr. Ellis also explained that ASD can be diagnosed at Level 1 (requiring support), Level 2 (moderately impacted), and Level 3 (severely impacted), and that she does not believe that she has ever found an ASD, Level 1, claimant eligible for services unless they also had another diagnosis.

29. Dr. Ellis also addressed areas of major life activity. As it relates to mobility, claimant is noted to be ambulatory with no assistance needed to ambulate.

30. As it relates to self-care, Dr. Ellis noted that as claimant is still quite young, he appropriately needs assistance with daily living skills such as getting dressed, bathing, and brushing teeth. She is not concerned about his toilet training at this time, because it is a significant task, and progress varies for young children. She opined that there is not a substantial disability in self-care.

31. As it relates to learning, the regional center is looking at whether a child can acquire and apply age-appropriate knowledge or skills. Dr. Ellis noted that at the time of the initial intake, claimant was able to sing the alphabet, count to 12, and name colors, animals, and some body parts. On the Kaufman Assessment Battery for Children, he obtained a scaled score in the 98th percentile on the puzzle subtest.

Dr. Ellis also noted that there is no concern for claimant's cognitive skills noted in the IEP. She opined that there is not a substantial disability in learning.

32. As it relates to communication, Dr. Ellis noted that during the intake assessment, claimant was able to build blocks and play with magnet tiles with Dr. Cate, and he provided Dr. Cate with the colors she requested. He was able to follow directions, share and engage with Dr. Cate, and show her the items he was playing with. Dr. Ellis also noted that claimant was reported to have 50 to 100 words at the time, could use gestures to indicate good or bad, mostly used single words to express his needs and wants, and had the ability to use three-word phrases if guided and highly motivated. Although claimant's October 2024 speech assessment scores were noted as low by Central Coast Language and Learning, his speech assessments noted that he was improving over time since he started receiving services in November 2023. It was also noted by his mother that his verbalizations had increased both with and without prompting. Dr. Ellis also considered that claimant's communication skills during the social intake assessment were age appropriate, and that the May 2025 ABA report noted that he had made progress in language skills. Dr. Ellis opined that there is not a substantial disability in receptive and expressive communication.

33. As it relates to self-direction, Dr. Ellis noted that claimant easily transitioned from the lobby playroom to the meeting room during the social intake, and he played with Dr. Cate and provided her with the colors she requested. Dr. Ellis noted that although claimant had been reported to have longer tantrums at home, his longest tantrum noted at school was eight minutes, and she would typically expect to see a child with a substantial impairment in this area to tantrum for 90 minutes, bang his head, and/or scratch his face, and that this would occur over multiple settings. When questioned about claimant's eloping behavior, Dr. Ellis noted that young

children sometimes do not wait for their parents when attempting to cross the street and that they often need supervision. She opined that there is not a substantial disability in self-direction.

34. Dr. Ellis opined that claimant's family has not established that claimant is eligible for regional center services. She reviewed all the records admitted into evidence at hearing, including questionnaires and test results, and testified that nothing in the records changed her opinion.

Claimant's Evidence

35. Claimant's mother testified in a sincere and passionate manner at hearing about claimant's challenging behaviors. In Spring 2025, claimant was attending preschool in Greenfield three days per week. Claimant is not toilet trained and will not eat with others outside of his immediate family. For this reason, claimant's mother reduced the number of hours that he attended preschool and picked him up before noon.

36. Claimant's mother reported that claimant has tantrums, has engaged in self-injury, and lacks verbal skills. Claimant's mother noted that he periodically regresses in some areas and improves in others.

37. Claimant started working with a speech therapist in January 2024. He was largely non-verbal at the time but has greatly improved. Claimant's mother reported that he has difficulty working in a structured setting but can learn through play.

38. Speech and language pathologist Maria Costa, M.S., C.C.C.-S.L.P. wrote a letter dated May 14, 2025. Costa wrote that claimant is making positive gains toward meeting therapy goals, however overall progress is negatively impacted due to

difficulties with behavioral regulation including occasionally attempting to leave the room, throwing himself on the floor, blowing raspberries/spitting, and/or raising his voice to avoid non-preferred tasks or indicate frustration or anger.

39. Claimant's mother believes that claimant is very bright and academically advanced but has problems with communication and peer interaction. She submitted a letter from his preschool teacher dated May 16, 2025, stating that claimant was aggressive with another child at school, which is uncharacteristic for him.

40. Claimant began attending occupational therapy with Valeria Duarte, O.T.R./L., M.O.T., once a week in February 2025. Claimant's mother assists during the sessions because he has difficulty adapting to changes in his routine. In a letter dated May 15, 2025, Duarte noted that since his evaluation in January 2025, claimant has demonstrated improvements with attention to tasks, however he requires frequent redirections to engage in therapist-led activities. Duarte noted that he has difficulty engaging in non-preferred activities and adapting to changes in routine and immediately refuses and requests his mother. She noted that although there have been improvements, he continues to demonstrate challenges with transitions and poor self-regulation affecting his engagement with many age-appropriate occupations.

41. Claimant's mother reported that claimant has regressed in some areas since Fall 2024. He is physically capable of eating but needs constant supervision because he will not eat on his own. It is difficult for him to develop peer relationships. His crying and tantrums have improved but he occasionally still has tantrums that last hours.

42. An Initial Assessment was done by BlueSprig for ABA services on October 22, 2024. The Verbal Behavior Milestones Assessment and Placement Program (VB-

MAPP) was completed. A Vineland was also completed by claimant's mother. Goals were identified including developing language skills, and behaviors were targeted for reductions including eloping and tantrum-like behavior. Claimant started ABA services in February 2025. Claimant's May 29, 2025, ABA treatment plan update notes that since his last assessment, he is meeting some of his goals.

43. Claimant's mother agrees that claimant has made some progress. However, while some behaviors have been improving, she reported that others are going in the "wrong direction." Self-injurious behavior has been less persistent and less extreme. Claimant used to fall and bang his head on the floor when frustrated whereas now he hits himself on the head or chews his nails. However, eloping is still a big issue, and their family keeps locks on the doors of their home and has alarms because claimant previously opened the door and ran into the street. Claimant also does not wait to cross the street and claimant's mother has to hold his hand to ensure his safety. Claimant's mother does not go to stores alone with claimant because he will run away. When claimant's mother signed claimant out at school, a staff member was required to restrain him to prevent him from running away.

44. In an assessment of need for protective supervision for IHSS program and health care certification form dated March 20, 2025, Dr. Huntley indicated claimant's judgment is severely impaired by autism, and that he functions at the level of an 18- to 20-month-old. Dr. Huntley did not provide any information to support his conclusions.

45. In June 2025, claimant's preschool teacher at Vista Verde wrote a report stating that claimant has displayed physical behaviors toward peers such as pushing during play or knocking over toys when he is trying to join in an activity; may hit his head, pinch himself or engage in self-injurious behavior when he is overwhelmed or

frustrated; often seems unaware of his surroundings requiring close supervision by staff; and needs full support with diapering and shows minimal interest in developing toilet independence. However, she also wrote that claimant has made several encouraging strides since starting preschool, including successfully engaging in hands-on or sensory-based tasks; remaining engaged and participating when staff offer alternative choices to non-preferred scheduled activities; independently eating finger foods, and occasionally trying cafeteria foods.

46. Claimant's mother believes that the surveys she completed do not fully reflect claimant's day-to-day experience. Claimant speaks in three- or four-word sentences, still has limited speech, and has difficulty having relationships with peers due to his communication deficits. He injures himself, cannot control his bowel movements, often will not eat without her assistance, is not aware of danger, and does not communicate needs such as needing water, food, or warmer clothes. When claimant was in preschool, his mother had to go to the school to change his diapers. Claimant's mother reported that claimant needs constant supervision and attention from her. Claimant's mother's greatest concerns for him are in the areas of self-care, peer relationships, communication, and a lack of awareness that puts him at risk of danger. During the second day of hearing, claimant's mother reported that he is no longer attending school.

47. Claimant's mother wants claimant to someday live independently and have a job. She is concerned for him and believes that he needs services and support to succeed. He is making progress, but she believes that he needs more support to accomplish more. She is hopeful that if claimant receives services from SARC, he will be able to reach more of his goals.

48. Claimant's mother expressed concerns that Dr. Ellis did not perform an in-person evaluation or observation of claimant, and she does not believe that SARC can make a legitimate determination without such an in-person evaluation.

49. Claimant's mother also expressed frustration with SARC employees and with the eligibility process. She left the proceedings on the second day of hearing during Dr. Ellis' testimony.

ULTIMATE FINDING

50. The evidence established that claimant meets the diagnostic criteria for ASD, an eligible condition. Dr. Ellis' opinion that claimant does not have significant functional limitations in the major life activities of mobility, receptive and expressive language, self-care, and learning, as defined by the Lanterman Act, was persuasive and consistent with the evidence presented at this time. However, the evidence presented at hearing, particularly the testimony from claimant's mother and some of the supporting documentation she provided did establish that claimant has significant functional limitations, relative to his peers, in self-direction. (Factual Findings 38, 39, 40, 41, 43, 45, and 46.) It is unclear at this time whether these limitations will be lifelong. Because the evidence did not establish that claimant has significant functional limitations in three of the five major life activity areas considered for children of claimant's age, claimant does not qualify for eligibility at this time.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. The purpose of the Act is to rectify the problem of inadequate treatment and services for the developmentally

disabled, and to enable developmentally disabled individuals to lead independent and productive lives in the least restrictive setting possible. (Welf. & Inst. Code, §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. A developmental disability is a disability that originates before an individual attains age 18, is likely to continue indefinitely, and constitutes a substantial disability for that individual. (Cal. Code Regs., tit. 17, § 54000, subd. (b).) The term "developmental disability" includes intellectual disability, autism, epilepsy, cerebral palsy, and what is referred to as the "fifth category." (Welf. & Inst. Code, § 4512, subd. (a).) The fifth category refers to "disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability." (*Ibid.*)

3. Pursuant to Welfare and Institutions Code section 4512, subdivision (f), the term "substantial disability" is defined 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: (1) Self-care. (2) Receptive and expressive language. (3) Learning. (4) Mobility. (5) Self-direction. (6) Capacity for independent living. (7) Economic self-sufficiency." The last two major life activities are not taken into consideration when evaluating a child claimant's age.

4. It is claimant's burden to prove that he has a developmental disability, as that term is defined in the Lanterman Act. The standard of proof is a preponderance of the evidence.

5. It is undisputed that claimant meets the diagnostic criteria for ASD. In addition, claimant has significant functional limitations in the area of self-direction, although it is unclear whether these limitations will be lifelong. (Factual Finding 50). Although he has limitations in some of the remaining major life activities, it was not established at this time that he has significant functional limitations in the remaining major life activities that are lifelong. (Factual Finding 50). Therefore, claimant does not qualify for eligibility under the Lanterman Act at this time.

ORDER

Claimant's appeal of the regional center's denial of eligibility is denied.

DATE:

MICHELLE DYLAN

Administrative Law Judge

Office of Administrative Hearings

NOTICE

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