

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

**In the Matter of:**

**CLAIMANT**

**and**

**SOUTH CENTRAL LOS ANGELES REGIONAL CENTER,**

**Service Agency.**

**DDS No. CS0025484**

**OAH No. 2025031110**

**DECISION**

Maria Palomares, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on January 9, 2026, at South Central Regional Center's offices in Los Angeles, California.

Claimant was represented by her mother (Mother), who also served as her authorized representative. The names of the Claimant and her family members are omitted to protect their privacy.

Aaron Vargas, a certified court interpreter, provided Spanish language assistance.

Tammi Summerville, Fair Hearing Manager, represented South Central Los Angeles Regional Center (Service Agency).

Oral and documentary evidence was received. The record closed, and the matter was submitted for decision at the conclusion of the hearing day.

### **ISSUE**

Does Claimant qualify for services under the Lanterman Developmental Disabilities Services Act based on cerebral palsy, epilepsy, intellectual disability, autism spectrum disorder, or a condition closely related to intellectual disability or requiring similar treatment?

### **EVIDENCE RELIED UPON**

Documents: Service Agency's Exhibits 2-4, 6-7. Claimant's Exhibits A, C-F.

Testimonial: Laurie Brown, Ph.D.; Mother; Ashley Schwenn, Ed.S., Licensed Educational Psychologist.

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## **FACTUAL FINDINGS**

### **Parties**

1. Regional centers, such as Service Agency, determine eligibility and fund services and supports for individuals with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act or Act). (Welf. & Inst. Code, § 4500 et seq.)

2. Claimant is a 15-year-old girl who lives with Mother, stepfather, and three siblings. She has been diagnosed with attention deficit hyperactivity disorder (ADHD), post-traumatic stress disorder (PTSD), and anxiety disorder.

### **Jurisdiction**

3. In August 2024, Mother requested that the Service Agency evaluate Claimant for eligibility for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act), including consideration of any qualifying diagnoses such as autism spectrum disorder. (Welf. & Inst. Code, § 4512, subd. (a)(1).)

4. On February 25, 2025, Service Agency's interdisciplinary team, consisting of a physician, licensed psychologist, program manager, service coordinator, and nutritionist, met to evaluate Claimant's eligibility and concluded that Claimant does not have a developmental disability as defined by the Lanterman Act.

5. On February 27, 2025, Service Agency notified Claimant that she was ineligible for services under the Lanterman Act. The letter stated that the interdisciplinary team concluded Claimant does not have a developmental disability as defined in Welfare and Institutions Code section 4512, subdivisions (a) and (l), or

California Code of Regulations, title 17, section 54000. It explained: “More specifically, [Claimant] is not substantially disabled as a result of having Intellectual Disability, Autism Spectrum Disorder, Seizures, or Cerebral Palsy, . . . or a condition closely related to Intellectual Disability.” (Exh. 1, p. A9.)

6. Claimant timely appealed Service Agency’s decision.

## **Assessments**

### **PSYCHOLOGICAL EVALUATION**

7. On September 10, October 1, and December 10, 2024, clinical psychologists Joselyn Valle, Psy.D., and Isis Jones, Psy.D., evaluated Claimant at Service Agency’s request. They prepared a psychological evaluation based on a review of records and a clinical interview with Mother. They also observed Claimant. In addition, they administered standardized tests. These included the Autism Diagnostic Interview–Revised (ADI-R), Autism Spectrum Rating Scales (ASRS), Adaptive Behavior Assessment System–Third Edition (ABAS-III), Wechsler Abbreviated Scale of Intelligence–Second Edition (WASI-II), and Wechsler Nonverbal Scale of Ability (WNV). (Exh. 3, p. A41.)

8. The psychologists reported that inconsistencies in the data and the influence of other factors, such as recent school bullying and a 2023 sexual assault, prevented them from concluding that Claimant meets criteria for autism spectrum disorder (ASD). (Exh. 3, pp. A48–A49.) The ASRS assessment suggested that ASD criteria were met, but the ADI-R did not. Behavioral observations of Claimant showed some social inadequacies, including guarded participation and occasional inappropriate statements. However, Claimant initiated and sustained a conversation without prompting. Claimant also demonstrated adequate nonverbal communication skills, including her ability to sustain a coordinated gaze and make communicative

gestures and facial expressions. Evidence of restricted or repetitive behaviors was minimal and inconsistent.

9. The psychologists also found no evidence that Claimant meets the criteria for an Intellectual Disability diagnosis. They determined Claimant's cognitive functioning and adaptive behavior were not significantly impaired. Claimant demonstrated age-appropriate reasoning and problem-solving skills. She was able to engage in reciprocal dialogue and comprehend abstract concepts. Academic performance and adaptive functioning reports did not reveal deficits in conceptual, social, or practical domains. Overall, the evaluators concluded that Claimant does not present with intellectual or adaptive impairments consistent with Intellectual Disability. (Exh. 3, p. A47.)

### **NEUROPSYCHOLOGICAL REPORT**

10. On July 1, 2025, Alan A. Modarressi, Ph.D., conducted a "brief neuropsychological screening" of Claimant to assess for ASD and ADHD. (Exh. 7, p. A142.) The evaluation included a psycho-diagnostic interview and a mental status examination. It also involved the administration of standardized measures. These included the Wechsler Intelligence Scale for Children–Fifth Edition (WISC-V), Vineland-3 Adaptive Behavior Scales–Third Edition (Vineland), Millon Adolescent Clinical Inventory–II (MACI-II), Minnesota Multiphasic Personality Inventory–Adolescent (MMPI-A), Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) ADHD symptom checklists, and the Autism Diagnostic Observation Schedule–Second Edition (ADOS-2).

11. Dr. Modarressi determined that Claimant's overall intellectual functioning fell in the average range, with working memory in the low average range. (Exh. 7, p.

A143.) Claimant's adaptive behavior scores were low across communication, daily living, and social domains. (Exh. 7, p. A143.) The ADOS-2 yielded a combined communication and social interaction score of 11, which Dr. Moderessi interpreted as consistent with ASD. He also diagnosed Claimant with ADHD and generalized anxiety disorder. (Exh. 7, p. A144.)

12. Beyond noting Claimant's score on the ADOS-2 test, Dr. Modarressi did not include a detailed discussion of how he arrived at his determination regarding whether Claimant exhibited symptoms consistent with ASD. (Exh. 7, pp. A142–A145.) In addition, Dr. Modarressi did not address whether Claimant's early childhood history and 2023 sexual assault may have impacted her social and adaptive skills.

13. Dr. Modarressi noted Claimant's:

[P]rofile indicates the presence of clinically significant levels of anxiety in this adolescent. . . Additionally, frequent somatic complaints may include fatigue, headaches, stomachaches, and other pains and ailments that interfere with daily functioning.

(Exh. 7, p. A144.)

### **MULTIDISCIPLINARY PSYCHOEDUCATIONAL REPORT**

14. On August 28, 2025, Ashley Schwenn, Licensed Educational Psychologist (LEP) and American Board of School Neuropsychology Diplomate (ABSNP), conducted a multidisciplinary psychoeducational re-evaluation of Claimant to determine continued eligibility for special education services. (Exh. A, pp. Z1, Z29.) An LEP is a credentialed professional in California authorized to assess, diagnose, and provide

interventions for learning, behavioral, and social-emotional issues affecting educational performance.

15. Ms. Schwenn's evaluation included a review of records, interviews with the parent and teacher, and behavioral observations. Standardized measures administered included the ASRS, Autism in Girls Checklist, Vineland, Kaufman Test of Educational Achievement–Third Edition (KTEA-3), Neuropsychological Assessment, Second Edition (NEPSY-II) subtests, Test of Auditory Processing Skills–Fourth Edition (TAPS-4), and Test of Visual Perceptual Skills–Fourth Edition (TVPS-4). (Exh. A, pp. Z2–Z3.)

16. Ms. Schwenn found Claimant's overall intellectual functioning to be in the average range, with relative weaknesses in working memory and cognitive efficiency. Ms. Schwenn's academic testing showed Claimant had strengths in word reading and spelling and weaknesses in reading comprehension, math problem solving, written expression, and oral expression. It also showed that Claimant's adaptive functioning scores were very low in communication and daily living skills, and low in socialization. (Exh. A, pp. Z12, Z19–Z22.)

17. While examining Claimant, Ms. Schwenn observed Claimant made inconsistent eye contact, made exaggerated facial expressions, exhibited fluctuating intonation, and had difficulty maintaining reciprocal conversation. She also noted Claimant exhibited repetitive behaviors and rigidity.

18. Ms. Schwenn concluded that Claimant meets the eligibility criteria for special education services under the categories of autism, other health impairment, and specific learning disability. In her report, Ms. Schwenn issued an educational

diagnosis pursuant to the California Education Code, rather than a medical diagnosis. (Exh. A, p. Z34.)

## **Hearing Testimony**

### **DR. BROWN, PH. D.**

19. Laurie Brown, Ph.D., is the lead psychologist consultant at Service Agency. She holds a bachelor's degree in psychology, a master's degree in clinical psychology, and a Ph.D. in psychology with a clinical emphasis. Dr. Brown participates in interdisciplinary teams that make eligibility determinations and supervises other psychologists at Service Agency.

20. Dr. Brown testified at the hearing. She stated that the interdisciplinary team reviewed all available records, including Dr. Valle's and Dr. Jones' psychological evaluation, school records, mental health assessments, and outside reports. Based on this review, the interdisciplinary team concluded that Claimant did not meet the criteria for intellectual disability, ASD, or eligibility under the fifth category. Dr. Brown explained that the team gave great weight to Dr. Valle's and Dr. Jones' evaluation because it included a comprehensive review of records, developmental history, observations, and interpretation of test data, and addressed the need to rule out other possible diagnoses, such as bipolar disorder and body dysmorphic disorder.

21. Dr. Brown stated that the team gave little weight to Dr. Modarressi's neuropsychological assessment because it was based on a brief screening, lacked DSM-5 coded diagnoses, omitted test results and interpretation, and did not include developmental history or personal observations. Although Dr. Modarressi administered an ADOS-2, he did not explain the data or its diagnostic significance. A revised report only removed the word "brief" and remained incomplete.

22. Dr. Brown reviewed Ashley Schwenn's Multidisciplinary Psychoeducational Report. She explained that the report was thorough for educational purposes and demonstrated Claimant's cognitive ability as age-appropriate, with both strengths and weaknesses. However, the autism scale used was for special education eligibility, not a clinical DSM-5 diagnosis. Dr. Brown explained that educational diagnoses differ from the clinical diagnoses required under the Lanterman Act.

**ASHLEY SCHWENN, LEP**

23. Ashley Schwenn testified at the hearing. She is a licensed educational psychologist (LEP), a diplomate of the American Board of School Neuropsychology, and an adjunct professor. She prepared the Multidisciplinary Psychoeducational Report submitted in this matter and diagnosed Claimant with ASD for educational purposes. Ms. Schwenn stated she is familiar with DSM-5 criteria and is trained in administering the ADOS-2.

24. Ms. Schwenn stated that, during her observation, Claimant exhibited behaviors consistent with ASD, including auditory processing difficulties, underdeveloped language, repetitive behaviors, and poor insight into feelings. She opined that Claimant's weaknesses in verbal and nonverbal communication, stereotypical behaviors, and sensory-seeking actions were attributable to ASD rather than ADHD, anxiety, or PTSD. Ms. Schwenn explained that girls often mask autism symptoms until adolescence and asserted that Claimant's language delays and sensory issues could not be explained solely by trauma or ADHD.

25. Ms. Schwenn acknowledged that her diagnosis was made under the Individuals with Disabilities Education Act (IDEA) standards for educational purposes and not under DSM-5 standards required for a clinical diagnosis.

## **MOTHER**

26. Mother testified at the hearing. She stated that Claimant has long struggled with hygiene and daily living tasks and requires one-on-one support at all times. (Exh. F, p. Z113.)

27. Mother stated that Claimant's educational history includes multiple school changes and periods of homeschooling due to behavioral issues and conflicts with peers. She added that Claimant currently receives special education services under an Individualized Education Program (IEP), which has been in place since November 2023.

28. School records show that the IEP team met in May and September 2024 and determined that Claimant performed in the average range in reading and writing but well below average in mathematics. (Exhs. 4, pp. A54-A75; 6, pp. A110-A141.) The team included a Behavior Intervention Plan to address Claimant's difficulties staying on task, leaving class without permission, and failing to complete work.

29. In October 2025, Claimant's IEP team, which included Ms. Schwenn, reviewed updated assessments and transition planning for high school. (Exh. D, p. Z82.) The team confirmed Claimant's eligibility based on autism as the primary category, specific learning disability as secondary, and other health impairment as tertiary. (Exh. D, p. Z86.)

30. The Individualized Transition Plan (ITP) prepared by the IEP team reported that Claimant's low attendance negatively impacted her academic performance and limited opportunities to develop self-regulation and problem-solving skills. (Exh. C, pp. Z70, Z72.) In the ITP, teachers noted no concerns regarding adaptive

functioning or daily living skills, and described Claimant's self-regulation difficulties as intermittent rather than constant. (Exh. C, p. Z50.)

## **LEGAL CONCLUSIONS**

### **Jurisdiction**

1. Under the Lanterman Act, a consumer may request an administrative fair hearing to resolve disputes regarding services and supports provided by a regional center or service agency. (Welf. & Inst. Code, §§ 4710–4714.) Claimant timely and properly requested such a hearing, and therefore, jurisdiction for this case was established.

### **Burden and Standard of Proof**

2. Where a claimant seeks to establish eligibility for regional center services, the burden is on the claimant to demonstrate by a preponderance of the evidence that the Service Agency's decision denying eligibility is incorrect. (Evid. Code, § 115.) The term preponderance of the evidence means "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1388.)

### **Applicable Law**

#### **ELIGIBILITY**

3. To be eligible for regional center services and supports, claimants must demonstrate they have a qualifying developmental disability. As defined by the Lanterman Act, a qualifying developmental disability is "a disability that originates before an individual attains 18 years of age; continues, or can be expected to continue,

indefinitely; and constitutes a substantial disability for that individual.” (Welf. & Inst. Code, § 4512, subd. (a)(1).)

4. Disabilities eligible for services under the Lanterman Act are: intellectual disability, cerebral palsy, epilepsy, ASD, and what is commonly referred to as the “fifth category.” (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subd. (a).) The “fifth category” includes “disabling conditions found to be closely related to intellectual disability or to require treatment like that required for individuals with an intellectual disability.” (*Ibid.*)

5. The term “developmental disability” under the Lanterman Act does not include conditions that are solely psychiatric disorders, physical disorders, or learning disabilities. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000.) Specifically, it excludes “[s]olely psychiatric disorders where impaired intellectual or social functioning originated as a result of the psychiatric disorder or its treatment.” (Cal. Code Regs., tit. 17, § 54000, subd. (c)(1).)

### **SERVICE AGENCY RESPONSIBILITY**

6. The Lanterman Act assigns regional centers the responsibility of carrying out the State’s duties to persons with developmental disabilities. Regional centers must offer initial intake and assessment services to anyone believed to have a developmental disability. An assessment may include the collection and review of historical diagnostic data, procurement of necessary tests and evaluations, and summarization of developmental levels and service needs. Regional centers may also consider prior evaluations and tests—including intelligence, adaptive functioning, neurological, neuropsychological, diagnostic, and psychiatric testing—from other

sources when determining eligibility. (Welf. & Inst. Code, §§ 4620, subd. (a), 4642, subd. (a), 4643, subds. (a), (b).)

7. Licensed professionals such as psychiatrists, clinical psychologists, psychiatric nurse practitioners, clinical social workers, marriage and family therapists, and clinical counselors are authorized to make formal DSM-5 diagnoses within their respective scopes of practice. Licensed educational psychologists are limited to school-based evaluations for special education eligibility and may not render clinical DSM-5 diagnoses required for Lanterman Act eligibility. (Bus. & Prof. Code, §§ 2903, subd. (b), 4989.14, subd. (a)(2).)

## **DSM-5**

8. The Lanterman Act and its implementing regulations do not define intellectual disability, ASD, or the “fifth category” diagnosis. Eligibility for services based on these conditions is determined using the DSM-5, which is a comprehensive diagnostic tool prepared by the American Psychiatric Association and widely considered the principal authority for diagnosing psychiatric conditions.

9. For intellectual disability, the DSM-5 requires that three criteria be met: First, there must be deficits in general mental abilities, such as reasoning, problem-solving, planning, abstract thinking, judgment, academic learning, and learning from experience (Criterion A). Second, the individual must show impairment in everyday adaptive functioning compared to peers of the same age, gender, and sociocultural background (Criterion B). Third, the onset of these deficits must occur during the developmental period (Criterion C). (DSM-5, § 317.00, pp. 33-37.)

10. For ASD, the DSM-5 requires that three criteria be met: First, the individual must have persistent deficits in social communication and social interaction

across multiple contexts, such as abnormal social approach, poor eye contact, and difficulty developing relationships (Criterion A). Second, the individual must exhibit restricted, repetitive patterns of behavior, interests, or activities, which may include repetitive movements, rigid routines, highly fixated interests, or unusual sensory responses (Criterion B). Third, the symptoms must be present in early childhood, even if they do not become fully manifested until later (Criterion C). (DSM-5, § 299.00, pp. 50–59.)

## **Analysis and Disposition**

### **CEREBRAL PALSY AND EPILEPSY**

11. There was no evidence in the record establishing Claimant is diagnosed with cerebral palsy or epilepsy. Therefore, there is no eligibility based on cerebral palsy or epilepsy.

### **INTELLECTUAL DISABILITY AND FIFTH CATEGORY**

12. A preponderance of the evidence did not establish that Claimant has a diagnosis of intellectual disability. Both Dr. Jones and Dr. Valle concluded in their psychological evaluation that Claimant “does not currently meet the criteria for an intellectual disability . . . due to insufficient evidence of low cognitive skill,” noting that her cognitive performance fell slightly below the expected range for age but was not substantially low as required for diagnosis. (Exh. 3, p. A47.) Similarly, Ms. Schwenn’s multidisciplinary psychoeducational report stated that “[c]ognitive testing indicates average intellectual functioning . . . and does not meet criteria for intellectual disability.” (Exh. A, p. Z32.) These conclusions are consistent with the neuropsychological evaluation by Dr. Modarressi, which reported overall intellectual functioning in the average range, with working memory in the low-average range.

(Exh. 7, p. A143.) Although adaptive behavior scores were low across communication, daily living, and social domains, DSM-5 requires both significant cognitive deficits and adaptive impairments for an intellectual disability diagnosis. (DSM-5, § 317.00, p. 37.)

13. Claimant did not establish that she has a condition “closely related” to intellectual disability or requiring similar treatment. (Welf. & Inst. Code, § 4512; Cal. Code Regs., tit. 17, § 54000.) Courts have held that such a condition must share many of the same factors as intellectual disability. (*Mason v. Off. of Admin. Hearings* (2001) 89 Cal.App.4th 1119, 1129.) As discussed in Factual Finding 12, the psychological and neuropsychological evaluations, as well as the multidisciplinary psychoeducational assessment, consistently found Claimant exhibited average intellectual functioning and did not recommend treatment similar to that required for individuals with intellectual disability. Although Mother testified about Claimant’s hygiene and daily living challenges, and adaptive functioning scores were low in communication and daily living skills, adaptive deficits alone are insufficient to establish eligibility under the fifth category. (*Samantha C. v. State Dept. of Developmental Services* (2010) 185 Cal.App.4th 1462, 1486.) For these reasons, the evidence does not establish eligibility under the fifth category.

## **ASD**

14. The evidence does not establish a qualifying diagnosis of autism spectrum disorder ASD. Greater weight is given to the psychological evaluation by Dr. Valle and Dr. Jones, which concluded that Claimant does not meet DSM-5 criteria for ASD. Their assessment included developmental history, standardized testing, direct observation, and differential diagnoses, and found symptoms inconsistent with ASD. While the ASRS screening suggested ASD criteria were met, the ADI-R did not, and the psychologists ultimately determined that Claimant’s cognitive functioning and

adaptive behavior were not significantly impaired. In contrast, Dr. Modarressi's report was a brief screening that lacked DSM-5 coded diagnoses, omitted interpretation of test results, and failed to include developmental history or personal observations. Although Dr. Modarressi administered an ADOS-II, his report did not explain the data or its diagnostic significance, reducing the reliability of its conclusions.

15. Ms. Schwenn's opinion is also given limited weight because her diagnosis was made for educational purposes under IDEA, not as a clinical DSM-5 diagnosis required for Lanterman Act eligibility. As noted above, licensed educational psychologists may determine school-based eligibility but cannot render clinical diagnoses. While her report provides useful educational information, it does not satisfy the statutory requirement for a clinical evaluation.

16. Mother's observations of Claimant's challenges with hygiene, daily living skills, and social functioning are significant and noted. These observations alone, however, do not establish a qualifying clinical diagnosis under DSM-5. Dr. Valle and Dr. Jones considered these functional concerns and still concluded that Claimant does not meet the criteria for ASD. Additionally, the ITP team noted that teachers had not observed concerns related to adaptive functioning or daily living skills and described Claimant's self-regulation difficulties as intermittent rather than constant.

17. Considering the evidence as a whole, the record does not support that Claimant has a qualifying developmental disability under the Lanterman Act.

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## **ORDER**

Claimant's appeal is denied.

DATE:

MARIA PALOMARES

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.