

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

In the Matter of:

CLAIMANT

and

WESTSIDE REGIONAL CENTER, Service Agency.

DDS No. CS0026158

OAH No. 2025041166

DECISION

Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on February 6, 2026, by videoconference.

Westside Regional Center (WRC or Service Agency) was represented by Sonia Tostado, Appeals and Resolution Specialist. Claimant did not appear, but was represented by her uncle, who is her authorized representative. (Claimant's name, and her family members' names, are not used in the interest of privacy.)

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on February 6, 2026.

ISSUE

Is Claimant eligible for services from WRC under the Lanterman Developmental Disabilities Services Act, (Lanterman Act), Welfare and Institutions Code section 4500 et seq, on the basis she suffers from Autism Spectrum Disorder (ASD)? (All further statutory references are to the Welfare and Institution Code unless otherwise noted.)

EVIDENCE RELIED ON

In making this decision the ALJ relied upon WRC exhibits 1 through 16, Claimant's exhibit Z-1, the testimony of Thompson Kelly, Ph.D., and of Claimant's uncle.

FACTUAL FINDINGS

The Parties and Jurisdiction

1. Claimant is a 39-year-old woman who resides in the Service Agency's catchment area. She sought eligibility for services from WRC and underwent a psychosocial assessment by WRC in July 2024.

2. Service Agency then referred Claimant for a psychological evaluation, which occurred on two days in January 2025. The evaluation was conducted by Karen E. Hastings, Psy.D., a licensed psychologist.

3. On February 19, 2025, WRC wrote Claimant, informing her that she had not been found eligible for services. (Ex. 4, p. A15.) A Notice of Action (NOA) denying

eligibility was issued on or about February 20, 2025. (*Id.*, p. A16.) Claimant appealed the NOA on April 22, 2025. (*Id.*, p. A11.)

4. This hearing ensued; all jurisdictional requirements having been met.

Diagnostic Criteria

5. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, commonly known as the DSM-5 and referenced here as the DSM-5, is a standard reference manual published by the American Psychiatric Association. It is used by mental health professionals to diagnose developmental disabilities, and various mental disorders. It is utilized by the Service Agency and other regional centers to determine if a person suffers from one of the developmental disabilities that might establish eligibility.

6. Per the DSM-5, the essential features of autism spectrum disorder are persistent impairment in reciprocal social communication and social interaction (Criterion A), and restricted, repetitive patterns of behavior, interests, or activities (Criterion B). These symptoms are present from early childhood and limit or impair everyday functioning (Criteria C and D). (Ex 16, p. A100.)

Claimant's Background

7. Claimant's background is gleaned from several sources, including her psychosocial assessment (Ex. 5); information set out in a Neuro-Cognitive Evaluation Report dated June 29, 2023 (Ex. 9); the psychological evaluation from January 2025 (Ex. 6); and a multidisciplinary assessment performed on October 30, 2025. Further information is found in a letter by Claimant's uncle, written in September 2025. (Ex. 10.)

8. As noted above, Claimant is well into adulthood. She lives with her mother, who is approximately 66 years old; her mother supports the two of them with a part-time job. Claimant is not employed and it appears she has not held a job, except for occasional cleaning or babysitting jobs. She acted as a caretaker for her father for 15 years before he died. She has a brother who receives services from the Service Agency based on a diagnosis of ASD, and her nephew is also diagnosed with ASD.

9. Claimant was born prematurely by a Caesarian section and had jaundice at birth. Not all of her developmental milestones were disclosed, although Claimant reported some delay in her first words. Her mother reported Claimant walked independently at 13 to 15 months and started talking at approximately two and one-half years; “there is no history of speech regression or repetitiveness.” (Ex. 6, p. A26.)

10. Claimant reported that when she was four years old, she was diagnosed with autism and received services from an organization known as CARD—Center for Autism and Related Disorders. She had an Individual Education Plan (IEP) and was provided speech therapy. However, after approximately three years it was determined she did not have autism, and the speech services were discontinued. It must be noted that the Psychological Evaluation performed for the Service Agency states Claimant “was never diagnosed with autism as a child.” (Ex. 6, p. A26.) Dr. Hastings made that statement based on what Claimant’s mother told her. (*Id.*, p. A28.) The report of a childhood diagnosis for autism, some treatment for it, and termination of treatment for autism is found in the Neuro-Cognitive Evaluation (Ex. 9), and a letter from a provider of psychotherapy (Ex. Z1). Claimant’s uncle, in his September 2025 letter states, “I have since learned (in the last two years) that [Claimant] was in fact

diagnosed as being on the Autism spectrum but her mother declined any therapies for her." (Ex. 10, p. A82.)

11. Claimant was a good student in grade school and middle school, but she dropped out of high school when she was in the tenth grade. It was reported that Claimant dropped out because she was helping to care for her brother, and she had to assist her mother, who had been diagnosed with schizophrenia. These needs made it difficult for Claimant to cope with school.

12. In his letter, Claimant's uncle described her, when she was a child, as clinging to her mother and being more inwardly focused than he believes was normal for a child; he further described her as rarely exhibiting any initiative to act on her own. Claimant's mother, her uncle reported, rarely took her outside, and the two tended to be rather focused on certain television shows; this was their interaction with the world. (Ex. 10.)

Assessments and Evaluations

THE NEURO-COGNITIVE EVALUATION REPORT

13. Between August 31, 2022, and May 22, 2023, Claimant was evaluated by Kim B. Barrus, Ph.D., and Jennifer Kadin, Psy.D., who were affiliated with Family Psychological Services, Inc. Their office is located in Agoura Hills, California. (Ex. 9.)

14. The evaluators administered some 23 tests in the course of their assessment of Claimant. Among them, the most relevant are the Wechsler Adult Intelligence Scale, Fourth Edition (WAIS-IV), the Autism Diagnostic Observation Schedule (ADOS-2), and the Autism Diagnostic Interview-Revised (ADI-R).

//

15. The WAIS-IV revealed a full-scale IQ of 109, at the upper end of the average range. Other scores from the WAIS-IV were in the average range. (Ex. 9, p. A51.)

16. On the ADOS-2, Claimant obtained a score of 4 for Communication and 6 for Social Integration, which the evaluators determined placed her in the autism spectrum range. As to the ADI-R, she was deemed to be above the cutoff for reciprocal social interaction and abnormality of development but was below the cut off for communication and engagement in restrictive, repetitive, and stereotyped behaviors. (Ex. 9, pp. A56-57.)

17. Dr.'s Barrus and Kadin diagnosed Claimant with ASD, Attention Deficit Hyperactivity Disorder, Combined Type (ADHD), Generalized Anxiety Disorder, Major Depressive Disorder, Recurrent, Moderate, and Post Traumatic Stress Disorder. (Ex. 9, p. A59.)

SERVICE AGENCY'S PSYCHOLOGICAL EVALUATION

18. Karen E. Hastings, Psy.D. is a clinical psychologist. She assessed Claimant on January 14 and 21, 2025; her report is Exhibit 6. The assessment took place at the Service Agency offices, and Claimant was accompanied by her mother each day.

19. On the issue of Claimant being diagnosed with autism at age four, Dr. Hastings questioned Mother about that diagnosis. According to Mother, "Claimant was never diagnosed with autism" (Ex. 6, p. A28.)

20. According to Dr. Hastings, at the outset of the evaluation Claimant responded to the evaluator's greeting with good eye contact, and she said hello. Dr. Hastings further reported that "rapport was readily established over time as [Claimant]

made spontaneous verbal overtures and she had no difficulty talking about why she was there. . . . She acknowledged during elementary and middle school, she had some friends.” (Ex. 6, p. A28.) Claimant’s eye contact was inconsistent, but Dr. Hastings determined that was due to anxiety; Dr. Hastings perceived that Claimant tended to avoid eye contact because it increased her anxiety. However, eye contact improved as the evaluation went on. Discussing the first session, Dr. Hastings reported that “at no time was there any evidence of restricted or repetitive behaviors or interests. In response to the examiner’s farewell, and thumbs up, [Claimant] made eye contact and mirrored the examiner’s thumbs up.” (*Id.*, p. A 29.)

21. During the second session, Dr. Hastings reported that “rapport was easy to reestablish with [Claimant] who made spontaneous verbal overtures. Her eye contact was good throughout the session. Her speech was fluent, normal to fast in rate and with good prosody. No speech abnormalities associated with autism were noted. Her mood was mildly anxious, and she acknowledged that she was less anxious than at the time of the first session.” (Ex. 6, p. A29.)

22. Dr. Hastings administered the Wechsler Abbreviated Scale of Intelligence—Second Edition (WASI-II). Claimant’s full scale IQ was 118, above average.

23. The ADOS-2 was administered, and a score of 1 was assigned, leading to the conclusion that the likelihood of autism was minimal to low. (Ex. 6, p. A39.)

24. Dr. Hastings found that Claimant’s overall spoken language did not support a finding of ASD. She reported, “[Claimant] used sentences in a largely correct fashion with some complex speech. No speech abnormalities associated with autism were noted. There was no evidence of immediate echolalia, nor was there any stereotyped/idiosyncratic use of words or phrases.” (Ex. 6, p. A32.) Dr. Hastings noted

that Claimant demonstrated good eye contact with her and a range of facial expressions integrated with gestures, sharing enjoyment during a task by smiling. Claimant was able to come up with an idea for imaginative play, and there was no evidence of restricted or repetitive behaviors or interests.

25. Dr. Hastings went through the diagnostic criteria for ASD found in the DSM 5. As to each diagnostic criterion, she found that it was not met. Thus, for example, Claimant did not meet the criterion that the person in question shows restricted, repetitive patterns of behavior, as manifested by at least two of four symptoms, including stereotyped or repetitive motor movements, use of objects or speech; insistence on sameness, inflexible adherence to routines; highly restricted fixated interests that are abnormal in intensity or focus; hyper or hyporeactivity to sensory input or unusual interests in sensory aspects of the environment. (Ex. 6, p. A34.)

26. One diagnostic criteria is that symptoms of ASD must be present in the early developmental period, though they may be masked for a time. Dr. Hastings found that this was not met per history or observation. (Ex. 6, p. A35.)

27. Dr. Hastings did not find that Claimant had ASD. Her report states: “[I]n summary, taking into consideration all of the available data from interviews, observations and assessment measures [Claimant] does not meet criteria for Autism Spectrum Disorder, nor does she meet criteria for Intellectual Disability. There is no history of autism during the developmental period, nor does [Claimant] clinically present with symptoms of autism at this time. She does present as highly anxious and she also has a history of depression.” (Ex. 6, p. A35.) Dr. Hastings’ diagnosis was ADHD, Combined presentation by history. (*Id.*)

THE MULTIDISCIPLINARY ASSESSMENT

28. On October 30, 2025, Service Agency conducted a multidisciplinary assessment, utilizing the services of Kristen M. Prater, Psy.D., BCBA, who is associated with Rebecca R. Dubner, Psy.D.

29. Dr. Kelly testified that the multidisciplinary assessment was performed to obtain more information. It was not so much a diagnostic tool, but it allowed the eligibility team to further assess Claimant and to look at function. When Dr. Prater performed the assessment, members of the eligibility team were able to observe the process by Zoom; Dr. Kelly is one of the eligibility team members who so observed.

30. Dr. Prater reviewed the psychosocial assessment, the neurocognitive assessment, and Dr. Hastings' report. She met with Claimant at the WRC offices, conducted an interview, and administered the Childhood Autism Rating Scale, High Functioning (CARS-HF). Dr. Prater reported that Claimant's scores on the CARS-HF fell within the minimal-to-no-symptom range. (Ex. 7, p. A43.)

31. Dr. Prater described Claimant's interaction with her as follows:

[Claimant] consistently utilized gestures within her communication, which were well-integrated in her conversation. She displayed significant insight into her emotional status, specifically within her expression of stress. She demonstrated a well developed understanding of social dynamics. She displayed humor with appropriate emotional responding. Her facial expressions were somewhat flat. She did not attempt to engage with this examiner, rather she spoke at this examiner with intent to share her own

experiences. Her visual responding was fleeting, making inconsistent eye contact, initially, and more consistent eye contact as she became more comfortable. She displayed high levels of anxiety. She responded appropriately to this examiner's nonverbal communication, specifically gestures and facial expressions.

(Ex. 7, pp. A42-A43.)

32. Dr. Prater summarized her assessment of Claimant as follows:

[Claimant] was reciprocal in her communication. She shared humor with this examiner, that was appropriate in context and timing. She demonstrated a well-developed understanding of social dynamics and insight into her own emotional experiences. She did not present with repetitive motor behaviors or thought patterns. Her diagnoses of depression and anxiety cannot be overlooked within the diagnostic presentation. Her display of intermittent flat affect, difficulty with social relationships, and overwhelm can be explained through this diagnosis. Based on previous assessments, as well as this administration of the CARS-2-HF, [Claimant's] symptoms are not clinically significant for the diagnostic criteria of Autism Spectrum Disorder (ASD). Furthermore, the DSM-5-TR requires the presence of symptoms within the early developmental period. [Claimant] explained that her symptoms were triggered by the death of her father and during a difficult period with her

landlord during the 2020 pandemic. The triggering of symptoms based on traumatic events negates the presence of a developmental delay. In contrast symptoms triggered by traumatic events are better explained through mental health diagnoses, rather than diagnoses of developmental delay.

(Ex. 7, p. A43.)

Dr. Kelly's Testimony

33. Dr. Kelly has conducted assessments of persons seeking regional center services for approximately 27 years. He also worked for several years as a special education teacher. He testified about the intake and assessment process in general terms. As to Claimant's case, he was part of the eligibility team that determined Claimant was not eligible for services. He explained that observing the multidisciplinary assessment indicated to him and other members of the eligibility team that while Claimant has significant problems, Claimant's problems are mental health problems, and not the result of ASD or another eligible developmental disability.

Other Matters

34. The Service Agency contacted the Los Angeles Unified School District, seeking school records for Claimant. The school district did not produce any records.

35. The eligibility team was staffed, in part, by Dr. Kelly, and another psychologist, Mayra Mendez, Ph.D., L.M.F.T, who also observed the multidisciplinary assessment.

36. Whitney Whiting, D.O., of the Venice Family Clinic, wrote a letter in September 2025 asserting that Claimant showed symptoms of ASD. They stated Claimant had been under their care for over a year, and had previously been diagnosed with Major Depressive Disorder, Generalized Anxiety Disorder, PTSD, and ADHD. The author stated that the clinic had been managing Claimant's symptoms with medical management and therapy with "fair progress." (Ex. 11, p. A86.) Claimant was described further as continuing to struggle interpersonally, and Claimant endorsed a history of persistent difficulties with social communication and developing and maintaining relationships beginning in childhood. It was further stated Claimant demonstrated restricted and repetitive behaviors/interests and sensory processing differences.

37. Marsha L. Houston, MSW, LCSW, wrote a letter urging eligibility; the letter is dated January 27, 2026. Ms. Houston works with Family Psychological Services, Inc., the firm that produced the neuropsychological report, and she has cared for Claimant since November 2022. She believes that what she initially saw in Claimant was mental health problems, she has come to believe that Claimant has developmental issues as well. Ms. Houston believes that the two things that impact Claimant the most are deficits in her executive functioning and difficulty with socialization skills. (Ex. Z-1.) It is noted that Ms. Houston stated that it took two years for Claimant move from phone sessions to Telehealth therapy, and the problem was not related to her computer skills. (*Id.*, p. Z2.)

//

//

//

LEGAL CONCLUSIONS

Jurisdiction and the Burden of Proof

1. Jurisdiction exists to conduct a fair hearing in this matter pursuant to section 4710 et seq., based on Factual Findings 1 through 4.

2. As the party asserting eligibility, Claimant bore the burden of proving by a preponderance of the evidence that she is eligible for services. (See Evid. Code, §§ 115 & 500.) Preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324.)

Legal Conclusions Pertaining to Eligibility Generally

3. The Lanterman Act, at section 4512, subdivision (a)(1), defines developmental disabilities as follows:

“Developmental disability” means a disability which originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. . . . this term shall include intellectual disability, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to Intellectual Disability or to require treatment similar to that required for individuals with an intellectual disability, but shall not include other handicapping conditions that are solely physical in nature.

4A. Regulations developed by the Department of Developmental Services (DDS), pertinent to this case, are found in Title 17 of the California Code of Regulations (CCR). At CCR section 54000 a further definition of "developmental disability" is found which mirrors section 4512, subdivision (a).

4B. Under CCR section 54000, subdivision (c), some conditions are excluded. The excluded conditions 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 intellectual disability.

5. Section 4512, subdivision (1), provides:

“Substantial disability” means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

- (1) Self-care.
- (2) Receptive and expressive language.
- (3) Learning.
- (4) Mobility.
- (5) Self-direction.
- (6) Capacity for independent living.
- (7) Economic self-sufficiency.

6. Section 54001 of the CCR is substantially similar to section 4512, subdivision (1) of the Act. It provides as follows:

(a) “Substantial disability” means:

- (1) A condition which results in major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and

coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age:

(A) Receptive and expressive language;

(B) Learning;

(C) Self-care;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency.

(b) The assessment of substantial disability shall be made by a group of Regional Center professionals of differing disciplines and shall include consideration of similar qualification appraisals performed by other interdisciplinary bodies of the Department serving the potential client. The group shall include as a minimum a program coordinator, a physician, and a psychologist.

//

(c) The Regional Center professional group shall consult the potential client, parents, guardians/conservators, educators, advocates, and other client representatives to the extent that they are willing and available to participate in its deliberations and to the extent that the appropriate consent is obtained.

(d) Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

Dispositive Legal Conclusions

7. Claimant has failed to carry her burden of proving she suffers from ASD, which is necessary for her to become eligible for services under the Lanterman Act. First, there are conflicting assessments, and conflicting test results. The psychological assessment and the multidisciplinary assessment, each generated by psychologists experienced in diagnosing ASD, do not find that condition. The test results derived from the ADOS by Dr. Hastings are far different than the results of the neuropsychological report, which raises questions about the earlier diagnosis. And, the report by Dr. Prater, with her description of interacting with Claimant, tends to negate a finding that Claimant suffers from ASD.

8. Second, and of great significance, is the issue of whether Claimant had autism when she was a child. That claim is repeated in some of the reports or correspondence, but according to Dr. Hastings, Claimant's mother denied an autism diagnosis was made when Claimant was a child. The history is further questionable because in 1991, when Claimant was four years old diagnostic criteria were found in

the DSM-IV, which set out more restrictive criteria for the diagnosis of autism. For example, one could not be diagnosed with autism and ADHD at the same time; that changed when the DSM-5 was published in 2013 and the spectrum analysis of autism was adopted. Further, it is questionable that a child diagnosed with autism in the early 1990's could essentially be cured of it by three or four years of speech therapy.

9. Claimant must establish that she had ASD in the developmental years, i.e., before age 18, in order to be diagnosed with ASD now. And, she must prove that to satisfy the statutory criteria of section 4512, subdivision (a)(1). The evidence in this case does not establish that critical fact, and thus Claimant cannot be found to suffer from ASD.

ORDER

Claimant's appeal is denied. Service Agency's determination that Claimant is not eligible for services under the Lanterman Developmental Disabilities Service Act is affirmed.

DATE:

JOSEPH D. MONTOYA
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.