

**BEFORE THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
STATE OF CALIFORNIA**

In the Matter of:

CLAIMANT

and

**NORTH LOS ANGELES COUNTY REGIONAL CENTER,
Service Agency.**

DDS No. CS0027376

OAH No. 2025060372

DECISION

Cindy F. Forman, Administrative Law Judge and Fair Hearing Officer, Office of Administrative Hearings, State of California, heard this matter by videoconference on October 27, 2025.

Claimant's foster mother appeared on behalf of Claimant. (Claimant and his foster mother will not be referred to by name to protect their privacy.)

Stella Dorian, Fair Hearing Manager, appeared on behalf of North Los Angeles County Regional Center (NLACRC).

Oral and documentary evidence was received. The record closed, and the matter was submitted for decision on October 27, 2025.

ISSUE

Whether Claimant is eligible for regional center services because his condition constitutes a developmental disability as defined in the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare and Institutions Code section 4500, et seq., and accompanying regulations. (All further statutory references are to the Welfare and Institutions Code unless otherwise stated.)

This Decision does not address whether Claimant is provisionally eligible for regional center services under the Lanterman Act. Although NLACRC's May 2, 2025 Notice of Action stated Claimant was found ineligible for provisional services, the Notice of Appeal did not specify whether Claimant's appeal related to the denial of provisional eligibility. NLACRC did not address the issue of provisional eligibility in its September 5, 2025 Notice of Action or in its position statement. The testimony at hearing exclusively focused on whether Claimant had a qualifying condition, such as autism spectrum disorder (ASD) or intellectual disability, for regional center services, which is not a requirement to receive provisional services. No testimony or hearing exhibits specifically addressed the issue of Claimant's provisional eligibility. Thus, nothing in this Decision precludes Claimant from appealing NLACRC's denial of his provisional eligibility for regional center services.

///

///

EVIDENCE RELIED UPON

The documentary evidence at hearing consisted of: NLACRC Exhibits 1 through 17. The testimonial evidence at hearing was provided by Sandi Fischer, Ph.D., NLACRC Intake and Psychological Services Supervisor, and Claimant's foster mother.

FACTUAL FINDINGS

Jurisdiction and Parties

1. Claimant is a three and a half year old boy who lives with his foster mother and foster sister. He has lived with his foster mother for nearly a year.
2. On May 2, 2025, NLACRC issued a Notice of Action informing Claimant's foster mother of its decision finding Claimant ineligible for regional center services, including provisional services, under the Lanterman Act. (Exhibit 7.)
3. On June 3, 2025, Mother appealed NLACRC's determination without specifying a basis for the appeal. (Exhibit 1.) After a mediation was held in this matter on July 30, 2025, Mother authorized the release of Claimant's education and medical records to NLACRC for further review.
4. On September 3, 2025, the NLACRC eligibility committee reviewed the additional records and reaffirmed its finding of Claimant's ineligibility to receive regional center services because Claimant did not have a qualifying disability.
5. This hearing followed.

///

Background

6. When Claimant was 34 months old, he was referred to the regional center for services under the Early Start Program. An Initial Developmental-Occupational Therapy, Speech-Language, and Sensory Integration Assessment, dated March 13, 2025, and prepared by Community Therapy Services (Initial Assessment), showed Claimant presented with moderate receptive/expressive language skills and severe adaptive behavior delays. (Exhibit 3, p. A16.) The Initial Assessment also found Claimant to be at risk for delays in the areas of cognition, social-emotional, and physical development. The Initial Assessment recommended Claimant receive individual child development, occupational therapy, and speech therapy to address his delays, and to continue to receive occupational and speech-language therapy after the age of three. Based on the Initial Assessment, Claimant was accepted into the Early Start Program.

7. The record does not show whether Claimant was separately assessed to determine whether he was provisionally eligible for Lanterman Act services under section 4512, subdivision (a)(2). (See Legal Conclusions 6 & 7.)

8. Claimant currently attends a regular early childhood program at El Dorado Elementary School in the Lancaster School District (School District). He has an Individualized Education Plan (IEP) and is eligible for special education services under the "Speech or Language Impairment" category. Claimant is in a general education classroom 90 percent of the school day, and he receives 120 minutes of speech and language services each month, making up the remaining 10 percent. He also receives accommodations regarding verbal modelling. The School District did not deem him eligible for an extended school year or special transportation.

9. Claimant is in good health. He does not suffer from any serious health conditions. He has not been diagnosed with cerebral palsy or epilepsy.

Claimant's Assessments

PSYCHOLOGICAL

10. Upon Claimant's aging out of the Early Start Program, NLACRC referred Claimant for a psychological evaluation to determine his eligibility for regional center services on a non-provisional basis. Larry E. Gaines, Ph.D., a licensed psychologist, performed the psychological evaluation of Claimant on April 23, 2025, three days before his third birthday. The purpose of the evaluation was to determine Claimant's current levels of cognitive and adaptive functioning, and was limited to the assessment of developmental disabilities, including intellectual disability and/or autism spectrum disorder (ASD).

11. Dr. Gaines's evaluation included a clinical interview of Claimant, an interview with Claimant's foster mother, a review of records, and the administration of the following psychological assessments: Wechsler Pre School and Primary Scale of Intelligence – IV (WPPSI); the Beery-Buktenica Developmental Test of Visual Motor Integration (BBDTVMI); Autistic Diagnostic Interview – Revised (ADI – R); and Autistic Diagnostic Observation Scale – 2 Module 1 (ADOS-2). Dr. Gaines also interviewed Claimant's foster mother utilizing the Vineland Adaptive Behavior Scale Third Edition (VABS-3). (Exhibit 5.)

12. Dr. Gaines described Claimant as a "quite active" child who was easily distracted. Claimant made "some" eye contact with Dr. Gaines, but Claimant did not formally greet him. Claimant was able to say a few words and smiled in response to praise. Dr. Gaines was able to play several games with Claimant. He observed Claimant

mimic emotion and gesture. Dr. Gaines also noted Claimant displayed poor frustration tolerance and became upset easily. When Dr. Gaines took a toy away from Claimant, Claimant screamed but eventually calmed down with his foster mother's intervention. (Exhibit 5, p. A21.)

13. On the WPSSI, Claimant showed he was functioning within the low-average range of cognitive ability, and his scores were consistent among clusters and across subtest tasks. (Exhibit 5, p. A21.)

14. Claimant's scores on the VABS-3 showed his language skills fell within the severe range of deficiency, his motor skills fell within the borderline range, his adaptive skills fell within the moderate range of deficiency, and his social skills fell within the mild range of deficiency. Regarding Claimant's language skills, Claimant's foster mother reported Claimant at the time of the testing could say 15 clear single words, respond to his name, and pull others by the hand or point to communicate what he needed, but Claimant could not follow directions. Claimant's foster mother did not report that Claimant used idiosyncratic language. Regarding his motor skills, Claimant's foster mother reported Claimant could go up and down stairs while holding someone's hand, jump, and throw and kick a ball. Regarding Claimant's adaptive behavior skills, Claimant's foster mother reported Claimant could feed himself but required help with dressing, undressing, and personal hygiene care. He was not toilet-trained. Regarding Claimant's social skills, Claimant's foster mother reported that he could be happy and content but also could get irritable quickly, had frequent tantrums, screamed, and could be aggressive. She also reported that Claimant has excellent social intent and enjoys playing with others, but does not share and does not demonstrate imaginative play. (Exhibit 5, pp. A21–A22.)

///

15. Claimant's scores on the ADI-R and the ADOS-2 did not indicate he presented with ASD. Dr. Gaines noted Claimant was able to make eye contact and engage in games. He was also able to mimic emotion and gesture. Claimant demonstrated good functional play and some symbolic play. Dr. Gaines did not observe any restricted or repetitive behaviors associated with autism, and Mother did not report any such behaviors. (Exhibit 5, pp. A22–A23.)

16. In Claimant's foster mother's interview with Dr. Gaines, she described Claimant as having a short attention span and being easily distracted. According to his foster mother, Claimant has difficulties waiting, interrupts others, and shows poor emotional regulation. Dr. Gaines believed Claimant's behaviors suggested aspects of an Attention Deficit/Hyperactivity Disorder (ADHD). (Exhibit 5, p. A21.)

17. Dr. Gaines relied on the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision (DSM-5) to determine whether Claimant presented with intellectual disability or ASD. The DSM-5 defines intellectual disability as "a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains." (Exhibit 15, p. A191.) Dr. Gaines concluded Claimant did not meet the diagnostic criteria for intellectual disability under the DSM-5 because, although Claimant's adaptive behavior skills fell within the mild-to-severe range of deficiency, his cognitive skills fell within the low average range of performance. (Exhibit 5, p. A23.)

18. Dr. Gaines concluded Claimant did not meet the DSM-5 diagnostic criteria for ASD. Those criteria require evidence of deficits in social communication and social interaction as well as restricted, repetitive patterns of behavior. (Exhibit 14, pp. A175–A176.) According to Dr. Gaines, Claimant did not evidence deficits in social-emotional reciprocity, as he showed good emotional expression during the evaluation.

Claimant did not evidence deficits in non-verbal communicative behaviors used for social interaction, as he made some eye contact and mimicked emotion and gestures. Claimant did not display any deficits in developing, maintaining, and understanding relationships as he smiled and played games during the assessment, and was reported to be very social with other children. Although Claimant's foster mother reported that Claimant flapped his hands, he did not meet the DSM-5 criteria for stereotyped or repetitive motor movements, use of objects, or speech because he did not display unusual play with toys or unusual language. Claimant also did not demonstrate any unusual repetitive rituals and did not evidence any highly restricted, fixated interests. There were also no reports of any hyper- or hyporeactivity to sensory input. (Exhibit 5, pp. A23–A24.)

19. Dr. Gaines asserted that Claimant met the criteria for Language Disorder and provisionally diagnosed Claimant with ADHD Combined Type because of Claimant's early age. Dr. Gaines recommended that Claimant participate in a special education program, communication therapy, and behavior management. He also recommended that Claimant continue to be monitored for ADHD and specific learning disabilities. (Exhibit 5, p. A24.)

SCHOOL DISTRICT ASSESSMENTS

20. On July 18, 2025, after two days of testing by the School District psychologist, special education teacher, and speech pathologist, Claimant was deemed eligible for special education services in the category of Speech or Language Impairment, particularly in expressive and receptive language. (A report of the School District findings is found at Exhibit 11.) The School District did not find Claimant presented with ASD because his social-emotional functioning was age-appropriate and he was able to maintain reciprocal conversation and effectively use nonverbal

communication. The School District also did not observe Claimant to engage in stereotyped or repetitive motor movements, but observed Claimant demonstrate age-appropriate social behaviors, including reciprocal play. Additionally, the School District did not find Claimant to be intellectually disabled, because they found his adaptive skill development to be in the low average range, even though his cognitive abilities were within the poor range.

21. The School District also evaluated Claimant's adaptive, motor, cognitive, social emotional, self-help, and daily living skills. The School District found Claimant's adaptive and motor skills fell within the low average range. Claimant's cognitive skills were significantly below age expectations, while his academic skills were in the "okay" range, with growth potential. (Exhibit 11, p. A20.) Claimant's social emotional skills were average. His self-help and daily living skills were slightly below what is typical, but not significantly delayed. The School District evaluators noted Claimant's high activity levels. The School District opined that Claimant's challenges and deficits were likely influenced by environmental factors such as inconsistent caregiving, limited exposure to structured routines, and limited access to enriched learning experiences due to his involvement in the foster care system rather than to a true developmental delay. (*Id.*, p. A38.)

MEDICAL ASSESSMENTS

22. Claimant has been treated by Marie Yao, M.D., at High Desert Medical Center (HDMC). Dr. Yao reports that Claimant has a history of childhood obesity, allergies, asthma, eczema, and global developmental delay. Dr. Yao communicated to NLACRC that Claimant's scores on the M-CHAT Autism Screening interview showed a moderate risk of autism. (Exhibit 8.) Dr. Yao also referred Claimant for a physical therapy evaluation, speech therapy evaluation, and an occupational therapy

evaluation. Details of Claimant's physical therapy and speech therapy evaluations are discussed below; the medical records did not include an occupational therapy evaluation.

23. Claimant's most recent physical therapy evaluation was performed by an HDMC physical therapist on July 23, 2025, when he was 38 months old. Claimant scored at a 35-month level for stationary skills, a 38-month level for locomotion skills, and a 32-month level for object control skills. The physical therapist reported the assessment was limited because Claimant had difficulty attending directed activities. (Exhibit 8, p. A84.) The physical therapist found Claimant's gross extremity range of motion, muscle tone, and strength appeared within functional limits and did not recommend follow-up physical therapy. (*Ibid.*)

24. Claimant's most recent speech therapy evaluation occurred on July 27, 2025, and was performed by an HDMC speech therapist. The speech therapist found Claimant's auditory comprehension skills, his expressive language, and overall vocabulary were moderately delayed, with an age equivalent close to two years below his chronological age. She noted that Claimant had "nice eye contact," a "bright affect," and an active imagination. (Exhibit 10, pp. A89-A90.) The speech therapist recommended Claimant receive weekly speech therapy for 30 minutes up to six weeks outside of school and speech therapy at school.

Testimony

DR. SANDI FISCHER

25. Dr. Fischer has worked at NLACRC for 14 years, first as a staff psychologist and currently as the Clinical Intake Manager. She also serves as a member of the NLACRC Eligibility Committee. Dr. Fischer specializes in psychological testing.

26. Dr. Fischer testified that none of Claimant's assessments or evaluations indicated Claimant had intellectual disability, ASD, or any other developmental disability eligible for Lanterman Act services. She noted that the Initial Assessment found Claimant presented with delays in communication and adaptive behaviors, but also described behavior inconsistent with an ASD diagnosis, including resilience, a positive demeanor, appropriate eye contact, and playing with toys with functionality. Dr. Fischer also remarked on Dr. Gaines's findings, particularly that Claimant's cognitive scores were in the low average range and his scores on various ASD assessment tools were below the ASD cutoff. She also noted that Claimant's adaptive skills were very delayed and not consistent with his cognitive scores.

27. Dr. Fischer testified regarding her communications with Dr. Yao. She explained that the M-CHAT screening tool is not a test for ASD. Rather, the tool informs medical providers that the child may be at risk for a developmental disability. None of the medical records reviewed by Dr. Fischer indicated Claimant presented with intellectual disability or ASD.

28. Dr. Fischer asserted that Claimant's school records also did not support Claimant's eligibility for regional center services. Dr. Fischer pointed to the School District's finding that Claimant did not present with ASD but had speech and language impairment. Dr. Fischer also noted that the School District described Claimant with a "varied developmental profile . . . with notable strengths and areas of concern" (Exhibit 11, p. A133), which Dr. Fischer found inconsistent with a child with ASD.

FOSTER MOTHER

29. Claimant's foster mother testified regarding Claimant's daily behaviors. She described Claimant as flapping his hands, constantly repeating a single word (e.g.,

saying “mommy” six times), and repeatedly taking his toys out every day and lining them up instead of playing with them. Claimant’s foster mother believes these behaviors, as well as others, are consistent with ASD, and she asserted that her friends and Claimant’s social worker also believe Claimant’s behaviors suggest he has ASD.

30. Claimant’s foster mother noted Claimant’s moods are constantly changing. She also described Claimant’s difficulties understanding language. According to Claimant’s foster mother, Claimant currently receives occupational therapy and speech therapy at school and receives mental therapy outside of school. He does not receive Applied Behavioral Analytics (ABA) therapy.

LEGAL CONCLUSIONS

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

2. Because Claimant is the party seeking governmental services, he bears the burden of proving, by a preponderance of the evidence, that he is eligible for such benefits or services. (See Evid. Code, §§ 115, 500.) Claimant has not met his burden of proving he is currently eligible for regional center services.

Applicable Law

3. A developmental disability, as defined by the Lanterman Act, “is 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.” (§ 4512, subd. (a)(1).) A development disability under the Lanterman Act is defined as intellectual disability, cerebral palsy, epilepsy, and autism, as well as

"disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability," otherwise known as a fifth category condition. A developmental disability does not include other handicapping conditions that are solely physical in nature. (*Ibid.*)

4. California Code of Regulations, title 17 (CCR), section 54000, subdivision (c), specifies those conditions that are not considered developmental disabilities. 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 [intellectual disability], 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. To prove the existence of a developmental disability within the meaning of section 4512, a claimant must show that he has a "substantial disability." CCR section 54001 defines "substantial disability" to mean:

(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.

6. A child under five years of age is provisionally eligible for regional center services if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two of the following areas, as determined by the regional center and as appropriate to the age of the child: (i) self-care; (ii) receptive and expressive language; (iii) learning; (iv) mobility; and (v) self-direction. To be provisionally eligible, a child is not required to have intellectual disability, ASD, epilepsy, cerebral palsy, or a fifth category condition. (§ 4512, subd. (a)(2).)

7. A child eligible for early intervention services is to be assessed at least 90 days before the date they turn three years old to determine their ongoing eligibility for regional center services. The assessment shall initially determine if the child has a developmental disability as defined in subdivision 4512, subdivision (a)(1). (See Legal Conclusions 3–5.) If the child does not have such a developmental disability, the regional center must determine if the child is provisionally eligible for regional center services under section 4512, subdivision (a)(2). (See Legal Conclusion 6.)

Disposition

8. Claimant did not establish he is eligible for regional center services on the grounds of cerebral palsy, epilepsy, ASD, intellectual disability, or a fifth category condition. Claimant does not have a medical diagnosis for cerebral palsy or epilepsy. (Factual Finding 9.) He was not found intellectually disabled in any of his assessments, and the School District has placed him in a general education classroom. (Factual Findings 13, 17, 21.) He was also not found to have a condition closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability. (*Ibid.*)

9. Nor has Claimant been found to present with ASD. Neither Dr. Gaines nor the School District found Claimant had ASD. (Factual Findings 18, 20.) Claimant consistently presented as a social child during his evaluations and based on the reports by his foster mother. While Claimant's lining up his toys and hand-flapping may meet one of the DSM-5 criteria for ASD, none of Claimant's other behaviors fall within the DSM-5 definition of ASD. Additionally, regarding Dr. Yao's concerns that Claimant had ASD based on M-CHAT test scores, Dr. Fischer explained persuasively that M-CHAT is not a definitive ASD diagnostic tool because its findings are based on a questionnaire and do not include ASD specific testing. (Factual Finding 27.)

10. Claimant is potentially eligible for provisional services based on his age. The absence of a qualifying disability does not preclude Claimant from receiving regional center services on a provisional basis. (Legal Conclusions 6, 7.) However, it was unclear whether Claimant's appeal included the issue of provisional eligibility, and NLACRC offered no testimony or documents to explain the basis for its decision that Claimant is ineligible for such services. Thus, this Decision makes no finding regarding Claimant's provisional eligibility for regional center services under section 4512, subdivision (a)(2).

///

///

///

///

11. Based on the foregoing, Claimant has not demonstrated he has a developmental disability qualifying him for regional center services. No determination is made as to whether Claimant is provisionally eligible for regional center services.

ORDER

The determination by North Los Angeles County Regional Center that Claimant does not have a developmental disability qualifying him for regional center services is sustained. Claimant's appeal of that determination is denied.

Within 60 days of the date of this decision, North Los Angeles County Regional Center shall inform Claimant in writing of the basis for its determination that Claimant is ineligible for provisional regional services under Welfare and Institutions Code section 4512, subdivision (a)(2).

DATE:

CINDY F. FORMAN

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.