BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT

and

WESTSIDE REGIONAL CENTER, Service Agency.

DDS No. CS0027195

OAH No. 2025060466

DECISION

Cindy F. Forman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on August 8, 2025.

Ron Lopez, IDEA Specialist, appeared on behalf of Westside Regional Center (WRC or Service Agency).

Claimant's mother (Mother) appeared on behalf of Claimant. Claimant was not present at the hearing. (The names of Claimant and his Mother are not identified to protect their privacy.)

Oral and documentary evidence was received at the hearing. The record was initially kept open until September 10, 2025, to allow Mother to submit additional

medical records for WRC's review and for both parties to submit briefs in response to the additional medical records. In addition, during this period, the WRC Eligibility Committee was to review a July 14, 2025 letter written by two psychiatrists (July 14 letter) regarding Claimant because the Eligibility Committee had not considered the letter when assessing Claimant's eligibility for regional center services.

As of September 11, 2025, neither WRC nor Mother filed any documents or medical records relating to the July 14 letter or Claimant's medical condition. It was also not known whether the WRC Eligibility Committee reviewed the July 14 letter or the results of that review. The ALJ therefore reopened the record until October 3, 2025, ordering WRC, no later than September 26, 2025, to upload any records provided by Mother after the August 8, 2025 hearing or, if WRC had not received any records from Mother, a declaration to that effect. The ALJ further ordered the declaration to state whether the WRC Eligibility Committee reviewed the July 14 letter and the result of that review. Mother was given until October 3, 2025, to file a response to the WRC submissions.

On October 3, 2025, WRC filed with OAH a Response and Declaration of Facts signed by Thompson Kelly, Ph.D. (Kelly Declaration) stating WRC had not received any medical records or other information from Mother after the August 8, 2025 hearing and describing the results of the WRC Eligibility Committee's review of the July 14 letter. WRC's response was filed seven days late and was not served on Mother.

On October 7, 2025, the ALJ, on her own order, reopened the record and directed OAH to send Mother a copy of the Kelly Declaration, and requested a response from Mother no later than the close of business on October 8, 2025. On October 7, 2025, Mother filed Appellant's Response to Westside Regional Center's

Declaration of Facts (Mother's Response). The Kelly Declaration and Mother's Response were marked and admitted as Exhibit 14 and Exhibit A, respectively.

The matter was closed and submitted for decision on October 7, 2025.

ISSUES

1. Whether Claimant is eligible for services under the Lanterman Developmental Disabilities Services Act, Welfare & Institutions Code section 4500 et seq. (Lanterman Act). (All further statutory references are to the Welfare and Institutions Code unless otherwise stated.)

2. Whether a culturally competent psychologist should review Claimant's case.

EVIDENCE RELIED UPON

The Administrative Law Judge relied on WRC Exhibits 1 through 14 and Claimant Exhibit A, as well as the testimony of Thompson Kelly, Ph.D., WRC Intake Manager, and Mother, in making this decision.

FACTUAL FINDINGS

1. Claimant is a fourteen-year-old boy who lives with his Mother.

2. Since March 2025, Claimant has been hospitalized intermittently for various mental health and medical conditions. In May 2025, Claimant was formally diagnosed with catatonia. Since July 2025, Claimant has participated in a five-day-a-

week PHP program (Partial Hospitalization Program) offered by Resnick Neuropsychiatric Hospital at the University of California, Los Angeles (UCLA), where he receives treatment. Claimant is currently prescribed Ativan, which he takes four times daily, and risperidone.

3. Before Claimant's hospitalization, Claimant was in the eighth grade at a charter school where he had a 504 Plan providing for preferential seating and longer time on assignments. Claimant was home-schooled from the third grade through the seventh grade. At the time of the hearing, Claimant had not attended school since March 2025, and Mother was considering enrolling Claimant in DaVinci charter school, where he could receive tailored support services, or in a private school.

4. Claimant previously applied for WRC services in 2017 but was found ineligible because he did not present with cerebral palsy, epilepsy, autism spectrum disorder (ASD), intellectual disability, or a condition similar to intellectual disability or requiring treatment similar to intellectual disability (fifth category condition).

Current Service Agency Assessment

PSYCHOSOCIAL ASSESSMENT

5. On December 23, 2024, on Service Agency's behalf, Brigitte Jameson, M.S.W., PT, a Service Agency intake counselor (MSW Jameson), conducted a social assessment of Claimant by videoconference with Mother and Claimant. According to MSW Jameson's report (Exhibit 3), Mother sought a second evaluation of Claimant to determine his eligibility for Lanterman Act services because she was concerned about Claimant's academic and cognitive issues and Claimant's limited social skills, language impairments, and difficulties with age-appropriate self-care and activities of daily living. Mother also noted Claimant had a history of auditory processing difficulties and

impairments in pragmatic language skills. Mother informed MSW Jameson of Claimant's delays and impairments in gross and fine motor skills, and impairments in motor planning, body awareness, balance, coordination, and strength. Mother also shared with MSW Jameson Claimant's difficulties with social skills and social interaction with peers. Mother communicated to MSW Jameson that Claimant had difficulties with emotional regulation and became easily upset and frustrated. According to Mother, Claimant has difficulties with sensory processing, sensory modulation, and organization of behavior. He engages in some repetitive and stereotypical behaviors, such as insisting on wearing the same types of clothing and shoes. Mother reported Claimant exhibited frequent hand mannerisms throughout the day, as well as hair-pulling when distressed. Based on her assessment, MSW Jameson recommended Claimant to be evaluated for eligibility for regional center services. She also asked Mother to provide additional school and medical records to WRC.

2025 PSYCHOLOGICAL ASSESSMENT

6. On January 28, February 3, and February 17, 2025, Kristen M. Prater, Psy.D., BCBA, Psychological Associate, conducted a psychological assessment of Claimant on WRC's behalf. (Exhibit 4.) Dr. Prater worked under the supervision of licensed psychologist Rebecca R. Dubner, Psy.D. As part of her assessment, Dr. Prater reviewed WRC's client papers, interviewed Claimant's mother, and independently interviewed and observed Claimant. Dr. Prater also administered to Claimant the Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V), the Wide Range Achievement Test, Fifth Edition (WRAT5), the Vineland Adaptive Behavior Scales, Third Edition (VABS-III), the Childhood Autism Rating Scale, Second Edition, High Functioning (CARS-2-HF), the Autism Diagnostic Interview-Revised (ADI-R), and the Beck Youth Inventory (BY1-2).

7. Dr. Prater found Claimant's overall intellectual abilities to be in the low average range based on Claimant's scores on the WISC-V, which resulted in a full-scale (FSIQ) score of 80, and the WRAT. On the WISC-V, Claimant scored in the low average range on the Verbal Comprehension Index, the average range on the Visual Spatial Index, the low average range in the Working Memory Index, and the low average range on the Processing Speed Index. On the WRAT5, Claimant scored a low average on the word reading subtest, indicating his reading ability was at the 5.7 grade level. On the spelling subtest, Claimant's score was low average, placing him at the sixth grade level. Claimant's score in math computation was very low, placing him at the 3.5 grade equivalent.

8. Based on Claimant's WISC-V and WRAT5 scores, Dr. Prater did not find Claimant's cognitive abilities of concern and did not find Claimant to be intellectually disabled. However, Dr. Prater asserted Claimant's scores indicated a specific learning disability in mathematics.

9. To evaluate whether Claimant presented with ASD, Dr. Prater completed the CARS-2-HF based on her observations and her interactions with Claimant, and she requested Mother to complete the ADI-R. On the CARS-2-HF, Dr. Prater found Claimant's answers were concrete and circular when asked about basic facial expressions, his own emotions, and the causal factor of emotions. She noted Claimant often attributed his emotional state to religion and did not elaborate on his experiences or share descriptive language about his experience. Dr. Prater also observed Claimant inconsistently sharing eye contact with her, and Dr. Prater felt disconnected from Claimant. Dr. Prater did not notice that Claimant's movements and coordination were repetitive or that Claimant was preoccupied with materials or focused on minute details. Dr. Prater found Claimant's listening response to be age-

appropriate, and his verbal communication to be limited, but consistent with what was expected of a teenager. Dr. Prater also observed that Claimant appeared to be anxious throughout the interview and that his activity level was low. Based on Dr. Prater's observations, Claimant did not meet the CARS-2-HF cutoff for ASD.

10. In response to the ADI-R, Mother noted Claimant displayed minimal eye contact and social smiling. She indicated Claimant did not display a range of facial expressions, was not responsive to the approaches of other children, minimally directed attention to others, and had limited social functioning. Mother also noted Claimant did not stutter, babble, or repeat phrases and that he did not use idiosyncratic language or formalized speech. However, Mother described Claimant as limited in his ability to engage in reciprocal conversations and chat with others. Mother also described Claimant's unusual preoccupations. According to Mother, as a young child, Claimant preferred to play with paper towel rolls instead of toys and frequently lined up his toys. Currently, Mother indicated Claimant is fixated on history and religion and engages in several compulsions, including checking the doors, pacing, and walking in circles.

11. Based on Mother's observations, Dr. Prater found Claimant did not meet the ADI-R cut-off for ASD. Although Claimant's restricted, repetitive, and stereotyped behaviors scored above the diagnostic cutoff for ASD, his qualitative abnormalities in reciprocal social interaction and communication did not meet the ADI-R ASD diagnostic cutoffs.

12. Dr. Prater analyzed whether Claimant presented with ASD based on the criteria stated in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). Under the DSM-5, an ASD diagnosis requires (1) presentation of persistent deficits in social communication and social interaction in each of three

categories: (a) social-emotional reciprocity; (b) nonverbal communicative behaviors used for social interaction, such as facial expression, eye contact, appropriate gestures, and body language; and (c) developing, maintaining, and understanding relationships, and (2) presentation of restricted/repetitive patterns of behavior, interests, or activities in at least two of the following four categories: (a) stereotyped or repetitive motor movements, use of objects or speech; (b) insistence on sameness, inflexible adherence to routines or ritualized patterns of behavior; (c) highly restricted, fixated interests abnormal in intensity or focus; and (d) hyper-or hypo reactivity to sensory input or unusual interest in sensory aspects of the environment.

13. Dr. Prater found Claimant presented with sustained deficits in two of the three categories of social communication and social interaction: social-emotional reciprocity and developing, maintaining, and understanding relationships. (Exhibit 8, pp. A333–A334.) Regarding social-emotional reciprocity, Dr. Prater found Claimant's communications to be limited. Dr. Prater also found Claimant had difficulties developing, maintaining, and understanding relationships based on Mother's observations.

14. Dr. Prater did not find Claimant met the second category of social deficits, i.e., deficits in nonverbal communicative behaviors used for social interaction. Dr. Prater acknowledged Claimant's nonverbal communication, including eye contact, was limited. However, Dr. Prater asserted Claimant's symptoms were better attributed to an alternative diagnosis, and not to ASD.

15. Dr. Prater found Claimant presented with repetitive or restricted patterns of behavior, interests, or activities that fell within only one of the four categories, i.e., highly restricted, fixated interests that were abnormal in intensity or focus. With respect to that category, Dr. Prater found that Claimant exhibited restricted, fixated

interests in religion and history. Dr. Prater did not find that Claimant met the other three categories of repetitive behavior. She did not observe Claimant exhibiting stereotyped or repetitive motor movements. Although Dr. Prater observed Claimant display finger tapping during the interview process, she noted that the repetitive behaviors stopped when the interview began and that no other repetitive movements were observed. Dr. Prater did not observe Claimant insist on sameness or exhibit an inflexible adherence to routines or ritualized patterns of verbal or nonverbal behavior. Dr. Prater also did not observe any hyper or hypo reactivity to sensory input or unusual interest in sensory aspects of the environment.

16. Based on Claimant's records and test results, her interview with Mother, and her own observations, Dr. Prater concluded Claimant displayed persistent deficits in social communication and interaction in two of the three required categories and restricted, repetitive patterns of interests in one of the two required categories, which was insufficient to meet the DSM-5 diagnostic criteria for ASD.

17. Dr. Prater diagnosed Claimant with Major Depressive Disorder with moderate severity and Generalized Anxiety Disorder. She recommended Mother follow up with Claimant's psychiatrist to review medications, continue to monitor Claimant's cognition and learning, and obtain a full mental health evaluation of Claimant to address behavioral concerns.

Earlier Service Agency Assessment

18. On March 14, 15, and 21, 2017, Kaely Shilakes, Psy.D., performed a psychological evaluation of Claimant on WRC's behalf and prepared a report of her findings (Exhibit 6). At the time of the evaluation, Claimant was five years, 11 months old. The evaluation included an in-school observation of Claimant, interviews with

Mother and Claimant, and administering various tests and assessments. The purpose of the evaluation was to determine Claimant's level of cognitive, adaptive, and social functioning, rule out or substantiate a diagnosis of ASD, and determine regional center eligibility.

19. Based on Claimant's testing, Dr. Shilakes found Claimant's overall cognitive ability, as measured by the FSIQ, to be in the average range. Dr. Shilakes found Claimant showed intact verbal comprehension, expression, and reasoning; nonverbal, visual, spatial, and fluid reasoning abilities;, visual learning and memory; and speed of visual-motor processing. Claimant showed learning challenges in reading comprehension and math computation.

20. Dr. Shilakes administered the Autism Diagnostic Observation Schedule, 2nd Edition (ADOS-2) to assess whether Claimant presented with ASD. Based on her observations, Dr. Shilakes concluded Claimant's behaviors did not meet the ASD cut-off. Specifically, Claimant did not demonstrate any significant qualitative impairments with reciprocal social interaction and communication. Dr. Shilakes noted Claimant was able to respond to questions, although he had some difficulties elaborating. She also observed that Claimant used spontaneous language, gestured appropriately, made appropriate eye contact, and showed a range of facial expressions. Claimant was able to build and maintain rapport with her. Dr. Shilakes also noted that during her school observation, Claimant initiated and responded to social overtures, engaged in shared enjoyment, had friends, and played with his peers. Although Dr. Shilakes noted Mother reported that Claimant stacks and lines up his toys when upset and likes to count everything, Dr. Shilakes did not observe Claimant insist on sameness, exhibit inflexibility, or have highly restricted interests. She did not observe Claimant exhibit sensory issues.

21. Dr. Shilakes also found Claimant did not meet the diagnostic criteria of ASD as set forth in the DSM-5. According to Dr. Shilakes, based on her own observations and the absence of reported behavior, Claimant did not demonstrate persistent deficits in social communication and social interaction across multiple contexts and did not exhibit restricted, repetitive patterns of behavior, interests, or activities, except Mother's observation that he stacks and lines up toys and likes to count everything.

22. Dr. Shilakes noted Claimant's periodic social struggles. However, she found that his social issues appeared to be inconsistent and not across contexts. Dr. Shilakes wrote as follows:

> [Claimant] is able to show appropriate social-emotional reciprocity, coordinates verbal and nonverbal communication, engages in back and forth communication, and was observed seeking out and interacting with peers. He appears to have friends and engaged in imaginative play. Additional strengths include his strong family support system and reported improvements in school. [Claimant] is not presenting with enough significant or pervasive characteristics of [ASD] across settings to make a diagnosis at this time. Additionally, his early history does not indicate qualitative impairments associated with ASD.

(Exhibit 6, p. A60.)

23. Based on her observations, testing, and interviews, Dr. Shilakes found Claimant's overall profile was more consistent with learning issues and inattention,

which could impact his social interactions and communications. Dr. Shilakes also found Claimant's observed behaviors were not consistent with an ASD diagnosis. She provided rule-out diagnoses of attention-deficit/hyperactivity disorder, combined presentation; specific learning disorder – with impairment in reading; and language disorder.

SERVICE AGENCY DETERMINATION

24. On April 2, 2025, WRC's Eligibility Committee, consisting of Dr. Kelly, autism specialist Karesha Gayles, Psy.D., physician Ari Zeldin, M.D., and psychology consultant Mayra Mendez, Ph.D., LMFT, met to review Claimant's eligibility request. The committee determined Claimant was not eligible for regional center services based on Dr. Prater's evaluation findings and their review of Claimant's available records. (Exhibit 5.) There is no evidence that the Eligibility Committee had access to Claimant's hospital records at the time.

Claimant's Appeal

25. On April 3, 2025, WRC sent a letter and Notice of Action to Mother informing her that WRC's eligibility committee determined Claimant was ineligible for regional center services because he did not present with a developmental disability as defined by California law and regulation. (Exhibit 2, p. A19.) According to the letter, WRC attributed Claimant's symptoms to Major Depressive Disorder with moderate severity and Generalized Anxiety Disorder.

26. On June 2, 2025, Mother filed an appeal of WRC's eligibility denial. Claimant's mother asserted that: Dr. Prater incorrectly attributed Claimant's symptoms solely to Major Depressive Disorder, without adequately considering the possibility of a co-occurring diagnosis; Dr. Prater incorrectly dismissed without an explanation

Claimant's history of poor social communication and deficits in nonverbal communication; and Dr. Prater erroneously attributed Claimant's symptoms to a mood disorder instead of recognizing that they resulted from Claimant's ASD and the emotional impact of bullying. Mother requested Claimant's case be reconsidered, including the original 2017 denial, and asked "for a culturally competent review" of the case based on her belief that "disparities may have played a role in the decision-making process." (Exhibit 2, p. A16.)

27. In response to Mother's appeal, Service Agency requested that the matter be set for a fair hearing. This fair hearing followed.

Mother's Testimony and Documentary Evidence

28. At hearing, Mother explained she did not appeal the 2017 decision denying Claimant eligibility because she was unaware of her right to do so. According to Mother, Claimant's behavioral deficits and his ability to accomplish his activities of daily living have significantly worsened since 2017, when WRC first evaluated him. Mother had not sought another reassessment of Claimant sooner because of COVID.

29. Mother asserted Claimant presented with ASD based on her own observations and the observations of medical professionals who treated and examined Claimant. Mother reported that Claimant often zones out, shows limited response, and has difficulty with transitions. Claimant refuses to wear certain clothes and does not express emotions. Claimant does not remember who his classmates or friends are and does not understand the concept of birthday invitations. He will not shower for a week, unless reminded to do so, and has poor motor coordination. He cannot ride a bike, and if he starts running, he cannot stop. Claimant is hyper-focused on religion and history, and when he reads, he reads everything, including punctuation.

30. Mother cited several medical records to support her contention that Claimant presents with ASD. On November 14, 2024, Mother reported to Claimant's pediatrician that Claimant needed social skills therapy because Claimant had trouble making and maintaining conversations with his peers and was overwhelmed by bullying at school. The pediatrician noted he suspected "autistic/neurodivergent behaviors based on history." (Exhibit 8, p. A79.) A letter dated April 24, 2025, from Jason Boutros, M.D., stated Claimant demonstrated "several characteristics of medical, social, and emotional concerns" related to ASD and neurological disorders. Dr. Boutros wrote that during his examination, he observed Claimant exhibit body shaking, intermittent bladder incontinence, muscle soreness, exhaustion, delayed speech, challenges with social interactions, emotional changes, trouble with attention/focus, lack of eye contact, and an inability to understand figurative language. (Exhibit 9, p. A 80.) Dr. Boutros's letter did not disclose his medical specialty.

31. Mother also cited the July 14 letter, which was written by two psychiatrists at the Resnick Neuropsychiatric Hospital at UCLA who have treated Claimant. According to the letter, the two psychiatrists observed Claimant over two hospitalizations and an outpatient stay at UCLA. The two psychiatrists concluded that, based on the information they gathered, their record review, and their observations, Claimant meets the diagnostic criteria for ASD as outlined in the DSM-5. Specifically, the psychiatrists found Claimant exhibited significant challenges in social communication and interactions, namely in social-emotional reciprocity, nonverbal communicative behaviors, and developing and maintaining relationships. They also found Claimant displayed behaviors consistent with the DSM-5 criterion of restricted, repetitive patterns of behavior, interests, or activities. The psychiatrists asserted Claimant's behaviors and challenges have been consistent over time from the early developmental period and significantly impact Claimant's daily functioning. The

psychiatrists noted the "recent decline" in Claimant's adaptive behaviors and development of additional symptomatology in the past year; however, they concluded Claimant's earlier presentation "is fully and strongly consistent with the diagnosis of ASD." (Exhibit 13, p. A93.) The psychiatrists offered to provide additional documentation if needed to support their findings.

32. Mother took issue with Dr. Prater's evaluation. She contended Dr. Prater was not qualified to assess Claimant because she was not a licensed psychologist. Mother also asserted Dr. Prater was not culturally competent to assess Claimant, considering the regional center's history of denying services to Black adolescents, and renewed her request for a culturally competent assessment of Claimant. Mother also criticized Dr. Prater for her failure to consider Claimant's rigidity and his shutdowns. While Mother acknowledged Claimant may suffer from depression, she also asserted that his depression did not preclude a diagnosis of ASD.

33. Mother also asserted Claimant may be eligible for Lanterman Act services because of his seizures. Claimant's neurologist diagnosed Claimant on April 29, 2025, with seizure disorder and prescribed medication to treat the condition. (Exhibit 9, p. A81.) The neurologist noted that at the time of Claimant's visit, Claimant had experienced seizures for two months, with his last seizure three days earlier, and Claimant had been slow and not interactive since that time. (*Ibid.*)

Service Agency Testimony

34. Dr. Kelly testified on behalf of Service Agency. As a member of the Eligibility Committee that reviewed Claimant's request for regional center services, Dr. Kelly was familiar with Claimant's medical and educational records. At hearing, Dr. Kelly explained the basis for the Eligibility Committee's decision. According to Dr. Kelly,

Dr. Shilakes and Dr. Prater performed thorough assessments and observations of Claimant over multiple sessions and arrived at similar conclusions more than seven years apart, i.e., both concluded Claimant did not present with ASD, intellectual disability, or any other condition that would render him eligible to receive regional center services. Additionally, both psychologists attributed Claimant's conduct to mental health diagnoses, not developmental disabilities. Dr. Kelly acknowledged Claimant displayed significant deficits in socialization and deficiencies in activities of daily living, but it was Dr. Kelly's opinion, based on his review of the records, that those deficits and deficiencies were due to Claimant's mental health, and not to ASD.

35. The WRC Eligibility Committee did not find Claimant eligible for services under any other category. Claimant did not present with intellectual disability because his testing did not reflect significant cognitive impairment; rather, Claimant's test scores were consistent with a learning disability. Likewise, Claimant did not present with a condition similar to intellectual disability or requiring treatment similar to intellectual disability because his testing, at least in the past, was in the normal range. Dr. Kelly ascribed the decline in Claimant's test scores to a learning disability and depression. The Eligibility Committee did not find Claimant eligible based on epilepsy or cerebral palsy because there were no medical records indicating Claimant presented with those conditions. That Claimant had seizures was insufficient to establish epilepsy; Claimant needed to have a medical diagnosis of epilepsy to qualify for regional center services.

36. Dr. Kelly also addressed Claimant's declining cognitive profile, his ability to care for himself, and his medical condition. According to Dr. Kelly, the decline Claimant has experienced is not consistent with a developmental disability. Dr. Kelly asserted individuals with developmental disabilities do not experience significant

changes in their behavioral presentation. Dr. Kelly maintained that the behavior changes Claimant has experienced are more indicative of changes in Claimant's mental health. Dr. Kelly often sees significant declines in behavioral presentation in the period spanning adolescence and young adulthood. Dr. Kelly also maintained that most cases of catatonia are due to mental health issues, although he acknowledged that catatonia occurs in approximately 20 percent of ASD cases.

37. Dr. Kelly did not find the July 14 letter, by itself, sufficient to demonstrate Claimant has ASD. Dr. Kelly asserted the July 14 letter did not note that the two psychiatrists or anyone at UCLA administered specific ASD testing to Claimant or that they considered differential diagnoses to explain Claimant's behavioral presentation, as Dr. Shilakes and Dr. Prater had done. Dr. Kelly asserted that Claimant's depression, significant anxiety, and mental health issues could result in difficulties with social relationships and explain Claimant's other behaviors.

38. In response to Mother's questioning of Dr. Prater's qualifications, Dr. Kelly contended that Dr. Prater was fully qualified to perform Claimant's assessment even though she was not a licensed psychologist. According to Dr. Kelly, at the time of Claimant's assessment, Dr. Prater was a registered psychological associate with a doctorate in psychology, had completed all licensure requirements, and passed the national licensing assessment; however, she had not yet passed the California ethics exam. Dr. Prater is also a Board-certified behavioral associate with decades of experience working with adolescents on the ASD scale. Based on Dr. Prater's education and experience, Dr. Kelly found her particularly suited to evaluate Claimant. Dr. Kelly also pointed out that Dr. Dubner, who is a licensed psychologist and Dr. Prater's supervisor, discussed, reviewed, and approved Dr. Prater's assessment of Claimant.

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39. As the Eligibility Committee had not seen the July 14 letter and was not aware of Claimant's recent medical history when it denied Claimant's eligibility for regional center services, Dr. Kelly stated the Eligibility Committee would review the July 14 letter, the backup documentation to the July 14 letter, and any additional medical records regarding Claimant's catatonia and seizures that Mother could provide to ensure they had all available information before making a decision.

Post-Hearing Evidence

40. After the August 8, 2025 hearing, WRC did not receive any additional medical records from Mother regarding Claimant's medical condition or in support of the July 14 letter. (Exhibit 14.) After reviewing the July 14 letter, the WRC Eligibility Committee reached a consensus that the psychiatrists' findings were not based on a comprehensive evaluation of Claimant, and the comprehensive evaluations performed by Dr. Shilakes and Dr. Prater ruled out ASD. Thus, the Eligibility Committee did not modify its original determination that Claimant is ineligible for regional center services.

41. In her response to the Kelly Declaration, Mother contended the following: (a) Dr. Prater was not competent to assess Claimant because she did not possess an independent license to diagnose ASD; (b) Dr. Dubin, Dr. Prater's supervisor, never personally evaluated Claimant, which was contrary to Board of Psychology requirements governing assessments; (c) Claimant was unable to prepare a full and timely response to WRC's case at the August 8 fair hearing because Mother only received the "denial documentation" two days before the appeal hearing even though WRC previously had told the family the documentation was not available; (d) WRC's rule out of ASD is contradicted by multiple letters and clinical notes from Claimant's pediatricians and psychologists; and (e) WRC's determination that Claimant does not present with ASD reflects implicit bias and systemic evaluation gaps because his

evaluation was conducted without any apparent cultural considerations or use of culturally adapted tools, particularly in light of WRC's "well-documented history of lacking culturally competent evaluators." (Exhibit A.)

LEGAL CONCLUSIONS

Applicable Law

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. The purpose of the Lanterman 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. (§§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.)

2. 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." The term "developmental disability" is defined as intellectual disability, cerebral palsy, epilepsy, ASD, and what is commonly referred to as the "fifth category." (§ 4512, subd. (a)(1).) 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.*)

3. A "developmental disability" as defined in the Lanterman Act excludes solely physical conditions as well as conditions that are solely psychiatric disorders or

solely learning disabilities. (§ 4512, subd. (a)(1); Cal. Code. Regs., tit. 17, § 54000.) Therefore, someone whose conditions originate from the excluded categories (psychiatric disorder, physical disorder, or learning disability, alone or in some combination) and who does not have a developmental disability is not eligible for Lanterman Act services and supports.

4. The Lanterman Act charges regional centers with the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Lanterman Act. (§ 4620, subd. (a).) The Lanterman Act mandates that, "Any person believed to have a developmental disability . . . shall be eligible for initial intake and assessment services in the regional centers." (§ 4642, subd. (a).) An assessment may include "collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs." (§ 4643, subd. (a).)

Burden and Standard of Proof

5. 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 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.) Claimant has not met his burden of proof in this case.

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Analysis and Disposition

6. Claimant did not establish that he presents with cerebral palsy, epilepsy, intellectual disability, or a fifth category condition. Claimant presented no medical records reflecting a diagnosis of either cerebral palsy or epilepsy. That Claimant has experienced seizures over the past year is insufficient to demonstrate that he presents with epilepsy. Claimant was not found to be intellectually disabled. Claimant's cognitive or social functioning deficits therefore are not closely related to intellectual disability or require treatment like that required for individuals with an intellectual disability.

7. Claimant did not prove by a preponderance of evidence that he presents with ASD. Two psychologists who evaluated Claimant seven years apart ruled out ASD after observing and speaking with Claimant, observing Claimant at school, interviewing Mother, reviewing school records, and administering a battery of tests. Dr. Kelly, WRC's Intake Manager, and the Eligibility Committee, which includes an autism specialist, determined based on those evaluations Claimant was not eligible for regional center services based on a diagnosis of ASD. Dr. Kelly's testimony that the decline Claimant has experienced in his social interactions and his ability to care for himself during the seven years between his first and most recent assessments is not consistent with a developmental disability and better explained by a psychiatric diagnosis is also compelling.

8. The letters from Claimant's treating physicians and psychiatrists supplied by Mother are insufficient to overcome the findings of Dr. Prater, Dr. Shilakes, and the WRC Eligibility Committee. While the letters state Claimant demonstrates behaviors correlating with ASD, the letters in large part rely solely on Mother's observations. The letters do not indicate that any of the medical professionals treating Claimant

performed any ASD or psychological testing to account for Claimant's behaviors. Nor do the letters indicate whether the medical professionals considered that Claimant's behaviors might be better explained by other conditions, including Claimant's mental health issues. Mother also did not provide any documentation to support the conclusions noted in the letters.

9. Regarding Mother's contention she had insufficient time to prepare for the hearing because of the inaccessibility of pertinent documents until two days before the hearing, it is unclear which documents Mother received late and whether Mother had seen those documents earlier. Mother had Dr. Prater's assessment when she filed her appeal and many of the other WRC exhibits are copies of letters Mother provided. Additionally, under the Lanterman Act, the regional center is required to prepare a position statement and provide the statement, along with all copies of documents the regional center intends to use at hearing, no later than two business days before the hearing. (§ 4712, subd. (d)(1).) Mother acknowledges WRC provided copies of the exhibits two days before the hearing, which is consistent with the statutory requirements. Mother also had the right to request a continuance of the fair hearing if she did not have sufficient time to prepare for the hearing, which she did not do. (§ 4712, subd. (a).)

10. Mother's assertion that Dr. Prater was not qualified to assess Claimant is not persuasive. Dr. Prater has a doctorate in psychology, is a registered psychological associate, and holds a behavioral analyst certification. She has worked with autistic individuals for decades. Nothing in the Psychology Licensing Law prohibits a registered psychological associate from performing assessments and other psychological functions, provided she meets certain educational requirements and is supervised by a licensed psychologist. (Bus. & Prof. Code, § 2913.) Here, Dr. Prater

meets the educational requirements for a psychological associate and was supervised by a licensed psychologist who reviewed Dr. Prater's evaluation of Claimant. A review of the Psychology Licensing Law does not show that a supervisor is required to personally evaluate the individual assessed by the psychological associate under supervision, as Mother contends, and Mother cites no statutory or regulatory authority in support of her position.

11. Claimant's request for a culturally competent review of Claimant's case at this time is denied. While Mother expressed well-founded concerns about the cultural competency of individuals performing psychological assessments and the Lanterman Act has stressed the importance of providing culturally competent services (§ 4620.4), Mother failed to offer any evidence that Claimant's evaluations were performed without cultural consideration. It is not known whether Dr. Shilakes or Dr. Prater received cultural competency training. Mother did not identify any findings made by either Dr. Shilakes or Dr. Prater, or any of their conclusions, which reflected implicit bias. Charges based on WRC's alleged past practices and on unproven assumptions about the psychologists who evaluated Claimant do not constitute evidence.

12. In summary, WRC offered more persuasive evidence that Claimant does not present with a condition qualifying him for services under the Lanterman Act. If Mother obtains new evidence to support her contention that Claimant presents with ASD, Claimant's mother is entitled to request a new assessment with a culturally competent evaluator.

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ORDER

Claimant's appeal of the decision by Westside Regional Center finding Claimant ineligible to receive Lanterman Act services is denied. Claimant is not entitled to a review of his case at this time.

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.