

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

In the Matter of:

CLAIMANT

and

WESTSIDE REGIONAL CENTER,

Service Agency.

DDS No. CS0027615

OAH No. 2025060585

DECISION

Maria Palomares, Administrative Law Judge with the Office of Administrative Hearings, State of California, heard this matter by videoconference on December 18, 2025.

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

Sonia Tostado, Appeals Specialist, represented Westside Regional Center (Service Agency).

Oral and documentary evidence was received. The record closed, and the matter was submitted for decision on December 18, 2025.

ISSUE

Is Claimant eligible for services under the Lanterman Developmental Disabilities Services Act based on a diagnosis of autism spectrum disorder?

EVIDENCE RELIED UPON

Documents: Service Agency's Exhibits 1-15. Claimant's Exhibit A.

Testimonial: Karesha Gayles, Ph.D.; Mother; and Mother's boyfriend.

FACTUAL FINDINGS

Parties

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

2. Claimant is an 11-year-old girl who lives with Mother. From her birth until she was 11 months old, Claimant lived with Mother. She then resided with her

aunt until approximately the age of five. Claimant attends public school in general education classes with no special accommodations and has never received regional center services.

3. The parties agree Claimant does not meet the diagnostic criteria for cerebral palsy, epilepsy, intellectual disability, or any other condition closely related to intellectual disability or requiring similar treatment. The only outstanding issue is whether Claimant is eligible for regional center services based on an autism spectrum disorder diagnosis.

Jurisdiction

4. In August 2024, Mother asked Service Agency to evaluate Claimant's eligibility for services under the Lanterman Developmental Disabilities Services Act (Lanterman Act), which defines "developmental disability" to include autism spectrum disorder. (Welf. & Inst. Code, § 4512, subd. (a)(1).)

5. On February 12, 2025, Service Agency's multidisciplinary team, consisting of a neurologist, psychologists, and an autism spectrum disorder specialist, met to evaluate Claimant's eligibility for services under the Lanterman Act. The team concluded that Claimant does not have a developmental disability as defined by the Act.

6. On June 2, 2025, Service Agency sent Claimant a letter and Notice of Action stating she is ineligible for services under the Lanterman Act. The stated reason was that "eligibility team members did not find [Claimant] to be substantially handicapped by intellectual disability, cerebral palsy, epilepsy, autism spectrum disorder or other conditions similar to intellectual disability as referenced in the

California Welfare and Institutions Code section 4512 and title 17 of the California Code of Regulations section 54000." (Exh. 4, p. A19.)

7. Claimant timely appealed Service Agency's decision.

Assessments

MULTIDISCIPLINARY ASSESSMENT

8. On October 31, 2024, and February 3, 2025, Kristin M. Prater, Psy.D., a psychological associate supervised by licensed psychologist Rebecca R. Dubner, Psy.D., evaluated Claimant for autism spectrum disorder at the request of Service Agency. The psychologists prepared a multidisciplinary assessment report based on a review of records, a clinical interview with the authorized representative, behavioral observations during the evaluations and at school, and administration of the Childhood Autism Rating Scale, Second Edition – High Functioning (CARS-2-HF) and the Adaptive Behavior Assessment System, Third Edition – Self-Rating Form (ABAS-3). (Ex.6, pp. A30-A35)

9. The examiners concluded that Claimant:

[P]resents with deficits in communication, yet her behaviors do not meet full diagnostic criteria for [a]utism spectrum disorder based on this observation. [Claimant] was observed to engage with her peers and navigate a collaborative situation with them in her education setting. She adequately responded to and asked a variety of questions. She did not evidence repetitive behaviors, which

are clinically necessary for a diagnosis of [a]utism spectrum disorder.

(Exh. 6, p. A33.)

10. The CARS-2-HF assessment results administered by Dr. Prater reflect that Claimant "understood basic emotions, though she was unwilling to discuss more complex or negative emotions. Her awareness of her peers within the classroom setting appeared to be appropriate. [Claimant's] emotional expressions appeared to be flat or exaggerated." (Exh. 6, p. A32.) The assessment further stated that Claimant "demonstrated the ability to transition between tasks and locations without incident. Her visual response appeared to be avoidant." (Exh. 6, p. A32.) The ABAS-3 results indicated adaptive functioning in the low range, meaning her ability to perform everyday life skills, such as communication, self-care, and social interaction, was significantly below what is typical for her age. (Exh. 6, p. A33.)

11. The examiners further noted that Claimant presents "far below her chronological age. This deficit in her current presentation and the expectations of a young girl her age may be indicative of a young girl experiencing deficits in her mental health." (Exh. 6, p. A33.)

GITTELSON PSYCHOLOGICAL DIAGNOSTIC ASSESSMENT

12. On June 27, 2025, Myah Gittelson, Psy.D., a licensed clinical psychologist, and Vera Levi, M.A., a registered psychological associate, conducted a diagnostic evaluation of Claimant at the request of Mother. The evaluation included a records review, parent interview, behavioral observations, and administration of standardized tools: Wechsler Abbreviated Scale of Intelligence, Second Edition (WASI-II); ABAS-3,

parent-reported; Social Responsiveness Scale, Second Edition (SRS-2); and Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), Module 3.

13. The examiners observed that Claimant transitioned easily, worked diligently on cognitive tasks, and established rapport with the examiner. (Exh. 8, p. A39.) Claimant communicated fluently, shared personal experiences, and expressed enjoyment, though her eye contact was inconsistent and sometimes poorly coordinated. (Exh. 8, p. A45.) She demonstrated good emotional expression and pretend play skills but showed occasional social awkwardness, such as taking materials without asking. (Exh. 8, p. A44.) Her understanding of relationships was simplistic for her age, and she struggled to explain emotions. (Exh. 8, p. A49.)

14. The ADOS-2 evaluation showed no restricted or repetitive behaviors and only a low level of other autism-related symptoms. (Exh. 8, p. A43.) Despite these findings, Claimant's score met the ADOS-2 cutoff, signaling possible autism spectrum disorder. (Exh. 8, p. A43.) The Diagnostic Impression section stated there "was clear evidence of Restrictive Interests / Repetitive Behaviors *based on parent and client reports*, including history of spinning, rigidity, and sensory processing deficits and sensitivities." (Exh. 8, p. A49, italics added.) Based primarily on deficiencies in social and adaptive skills, the examiners diagnosed autism spectrum disorder, Level 1 (requiring support), without intellectual or language impairment, and also diagnosed Claimant with Attention Deficit Hyperactivity Disorder based on history.

15. Dr. Gittelson explained:

For females on the [a]utism [s]pectrum, there is sometimes a different presentation of the [autism spectrum disorder] traits with a new term 'Masking' being discussed in the field

of Autism. Masking can be defined as intentionally learning neurotypical behaviors and mimicking them in social situations, in addition to focusing on hiding behaviors that they feel won't be accepted. There is also often an overlap between [autism spectrum disorder] and [Attention Deficit Hyperactivity Disorder].

(Exh. 8, p. A49).

16. Dr. Gittelson did not address Claimant's early childhood history or its impact on her social and adaptive skills.

NEUROPSYCHOLOGICAL EVALUATION

17. On April 26 and May 8, 2024, Marc Borkheim, Ph.D., a licensed psychologist, conducted a neuropsychological evaluation of Claimant following a referral from her nurse practitioner. The evaluation included an individual interview, a review of records, and administration of multiple standardized tests, including the Gilliam Autism Rating Scale – Third Edition (GARS-3), which is based on parent report. (Exh. 9, pp. A51, A55.) Dr. Borkheim reported that Claimant "performs well [in] school, is a good student, and only displays anger and oppositionality [behavior] at home." (Exh. 9, p. A52.) He observed that Claimant conversed easily with the examiner, showed no speech difficulties, and remained focused during testing, with no attention problems noted in the session. (Exh. 9, p. A52.)

18. In the Summary and Conclusion section, Dr. Borkheim wrote that "cognitive testing indicate[s] scores consistently within the Average range, with Above Average abilities in Speed of Information processing which is near the 95th percentile. [Claimant] is able to process information very quickly. Testing indicated difficulties with

inattention and sustained attention, and confirm [Attention Deficit Hyperactivity Disorder]." (Exh. 9, p. A55.) Dr. Borkheim stated that Claimant's GARS-3 score based on parent concerns "indicated 'Very Likely' diagnosis of Autism." (Exh. 9, p. A55.) He added, without explanation, that "testing indicated that [Claimant] displays symptoms congruent with [a] High Functioning Autism diagnosis." (Exh. 9, p. A55.)

19. Dr. Borkheim further noted that "[i]t is expected that [Claimant has] very strong and difficult feelings, which at this time she appears to be unable to acknowledge, associated with the separation and estrangement from paternal family member with whom she lived from ages 1 to 4 years. [Claimant's] history of sudden tantrums and explosive anger, as well as separation anxiety with her mother, could be related to these underlying feelings of anxiety and anger associated with her experience of being separated and estranged from her paternal family unit." (Exh. 9, p. A55.)

DR. KARESHA GAYLES PSYCHOLOGICAL EVALUATION

20. On October 28 and 30, 2025, Karesha Gayles, Psy.D., a psychological associate supervised by Thompson Kelly, Ph.D., a licensed psychologist, conducted a comprehensive psychological evaluation for Service Agency. The purpose was to determine Claimant's eligibility for regional center services, with specific consideration of autism spectrum disorder. The evaluation included a clinical interview with caregivers, a review of records—including prior evaluations—and administration of standardized measures, notably the ABAS-3 and the ADOS-2, Module 3. (Exh. 15, p. A82.) Dr. Gayles concluded that Claimant does not meet the diagnostic criteria outlined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition. (Exh. 15, pp. A92–A93.)

21. During testing, Dr. Gayles found Claimant demonstrated age-appropriate social engagement, maintained good eye contact, and displayed a full range of facial expressions. She initiated and sustained reciprocal conversation, used gestures appropriately, and showed shared enjoyment. Her speech was fluent and coherent, with no echolalia, scripted language, or idiosyncratic phrasing. Claimant exhibited behavioral flexibility, imaginative thinking, and task persistence. No atypical behaviors, motor stereotypies, repetitive movements, or sensory-seeking behaviors were observed. (Exh. 15, pp. A90–A91.)

22. The ADOS-2 results were consistent with Dr. Gayles' observations, showing no clinically significant deficits in social communication or interaction and no restricted or repetitive behaviors. (Exh. 15, pp. A91–A92.) Dr. Gayles analyzed that Claimant's presentation was consistent with typical developmental expectations for a verbally fluent child. (Exh. 15, p. A91.) While caregivers reported concerns about social boundaries and emotional expression at home, these concerns were not corroborated during Dr. Gayles' examination or by teachers' notes in school records. (Exh. 15, p. A91.) Dr. Gayles further noted that Claimant demonstrated average cognitive functioning and academic achievement within the average range.

Hearing Testimony

GAYLES, PH. D.

23. Dr. Gayles testified that, after reviewing all evaluations—including those by Dr. Prater, Dr. Gittelson, and Dr. Borkheim—she found insufficient evidence to diagnose autism spectrum disorder. She explained that the ADOS-2 and ABAS-3 results reflected low concern for autism spectrum disorder and that Claimant demonstrated average cognitive functioning and generally average or above-average

performance across standardized tests, with only a few below-average scores. While Claimant scored in the low range on the ABAS-3, Dr. Gayles noted that her scores were not significantly low and therefore did not support an autism spectrum disorder diagnosis either.

24. Dr. Gayles testified that limitations attributed to autism spectrum disorder by Dr. Gittelson and Dr. Borkheim were based on preparental reports rather than direct observation. She emphasized that Claimant's ability to communicate, absence of repetitive or restrictive behaviors, and average cognitive functioning were inconsistent with autism spectrum disorder spectrum disorder. Dr. Gayles further explained that Attention Deficit Hyperactivity Disorder and anxiety can mimic autism spectrum disorder symptoms, but Claimant's limitations were not substantial enough to warrant an autism spectrum disorder diagnosis. She also noted that Claimant's school has not identified any learning disability, issued an Individualized Education Plan, or recommended special education services, and any limitations could be addressed with minimal support.

25. Finally, Dr. Gayles highlighted that Dr. Borkheim relied on the GARS-3, a parent-report measure, to conclude that Claimant was very likely to have autism spectrum disorder, and his report did not provide an explanation for this conclusion.

MOTHER

26. Mother testified that Claimant performs well academically, demonstrates perseverance, and attends general education classes without an individualized education plan. (Exh. 10, p. A62.) She stated that Claimant struggles in some classes but declined to provide additional school records when afforded the opportunity.

Mother reported that she observed no signs of autism spectrum disorder when Claimant was five years old or younger.

27. Mother expressed concern about Claimant's social interactions, noting she has difficulty maintaining friendships and exhibits behaviors such as clinging to peers or sending repeated text messages. Despite these concerns, Mother described Claimant as popular at school with many friends. She disagreed with the school district's decision not to identify autism spectrum disorder or a learning disability and testified that she appealed that decision. (Exh. A, p. Z1.) Mother declined to submit the school district's initial assessment.

28. Mother also testified that Claimant requires reminders for hygiene, including showering and discarding menstrual pads. She reported repetitive behaviors at home, such as humming, repeating words, hiding behind doors in the dark, and collecting tags and price labels as keepsakes. Finally, Mother stated that her work schedule has made it difficult to build a close relationship with Claimant.

BOYFRIEND

29. Mother's boyfriend testified that he has lived with Claimant for five years and knows her well. He stated that Claimant struggles with daily tasks and routines, and often resists assistance by saying, "I know." He observed that Claimant mimics others and sometimes reacts with anger or shuts down and refuses to speak.

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LEGAL CONCLUSIONS

Jurisdiction

1. The Lanterman Act governs this case. (Welf. & Inst., § 4500 et seq.) A state-level fair hearing to determine the rights and obligations of the parties, if any, is referred to as an appeal of the Service Agency's decision. Claimant properly and timely requested a fair hearing, and therefore, jurisdiction for this case was established.

Burden and Standard of Proof

2. Where a claimant seeks to establish eligibility for regional center services, the burden is on the claimant to demonstrate by a preponderance of the evidence 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 America* (2002) 94 Cal.App.4th 1378, 1387.)

Applicable Law

3. The Lanterman Act provides services and supports to meet the needs of persons with developmental disabilities, regardless of age or degree of disability. (Welf. & Inst. Code, § 4501.)

4. To be eligible for Service Agency services and supports, claimants must demonstrate they have a qualifying developmental disability. As defined by the Lanterman Act, a qualifying developmental disability is "a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual." (Welf. & Inst. Code, § 4512, subd. (a)(1).) The term "developmental disability" is defined as

intellectual disability, cerebral palsy, epilepsy, autism spectrum disorder spectrum disorder, and what is commonly referred to as the "fifth category." (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, §54000, subd. (a).)

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

6. The Lanterman Act and its implementing regulations do not define autism spectrum disorder. Eligibility for services based on this condition is determined using the Diagnostic and Statistical Manual of Mental Disorders criteria for autism spectrum disorder. (Diagnostic and Statistical Manual of Mental Disorders (5th ed. 2013) (DSM-5), section 299.00, pp. 50-59.)

7. The DSM-5, section 299.00, discusses the diagnostic criteria that must be met to provide a specific diagnosis of autism spectrum disorder, as follows:

A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history (examples are illustrative, not exhaustive; see text): [¶] 1. Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.

[¶] . . . [¶] 3. Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers. [¶] . . . [¶]

B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history (examples are illustrative, not exhaustive; see text): [¶] 1. Stereotyped or repetitive motor movements, use of objects, or speech . . . 2. Insistent on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior . . . 3. Highly restricted, fixated interests that are abnormal in intensity or focus . . . [¶] . . . [¶]

C. Symptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life).

D. Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.

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Analysis and Disposition

8. Claimant bears the burden of proving eligibility under the Lanterman Act by a preponderance of the evidence. Claimant contends she has autism spectrum disorder and is substantially disabled by that condition. The evidence presented does not satisfy this burden.

9. Greater weight is given to the Service Agency's evaluations because they relied on direct observation, standardized testing, and systematic application of DSM-5 criteria, which require that symptoms be present across multiple settings. Dr. Gayles and Dr. Prater observed age-appropriate social communication, reciprocal interaction, and behavioral flexibility. Claimant maintained eye contact, used gestures appropriately, and engaged in coherent conversation. No restricted interests, repetitive behaviors, or sensory-seeking behaviors were observed. The ADOS-2 confirmed these findings, showing no clinically significant deficits in social communication and no restricted or repetitive behaviors. Claimant's cognitive and academic performance was generally average or above average, with only minor weaknesses. While Claimant may experience emotional or behavioral challenges, Dr. Gayles persuasively opined that these are more likely attributable to trauma and mental health conditions, which do not qualify as grounds for Service Agency eligibility under the Lanterman Act.

10. By contrast, Claimant's submitted evaluations relied heavily on parent-report measures. Dr. Borkheim based his autism spectrum disorder conclusion on the GARS-3, a parent-report scale, and added without explanation that testing indicated symptoms of high-functioning autism spectrum disorder. His report acknowledged Claimant's strong academic performance and suggested Claimant was experiencing emotional difficulties related to early childhood separation, pointing to trauma and anxiety rather than autism spectrum disorder, thus undermining his own ultimate

diagnosis. Similarly, Dr. Gittelson diagnosed autism spectrum disorder despite noting that the ADOS-2 showed only low-level symptoms and no observed repetitive behaviors. Her Diagnostic Impression cited restrictive interests and sensory sensitivities based solely on parent and client reports and did not address Claimant's early developmental history.

11. Testimony from Mother and her boyfriend was credible and provided insight into Claimant's home behavior. Mother reported hygiene concerns and repetitive behaviors at home, and the boyfriend described occasional resistance, mimicry, and emotional shutdowns. These accounts suggest behavioral challenges; however, they were not corroborated by clinical observation or school functioning, and DSM-5 requires that autism-related behaviors be evident across settings and during early development. Mother also testified that Claimant performs well academically, attends general education classes without an Individualized Education Program, and is considered popular at school, which aligns with the absence of school records indicating a need for special education services.

12. The most persuasive evidence comes from Service Agency's psychological evaluations, supported by direct observation, objective measures such as the ADOS-2 and ABAS-3, and consistent application of DSM-5 criteria. This evidence demonstrates that Claimant does not meet the diagnostic criteria for autism spectrum disorder. Therefore, Claimant has not met her burden of proving a developmental disability and is not eligible for services under the Lanterman Act.

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ORDER

Claimant's appeal is denied.

DATE:

MARIA PALOMARES

Administrative Law Judge

Office of Administrative Hearings

NOTICE

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