

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

In the Matter of:

CLAIMANT

and

VALLEY MOUNTAIN REGIONAL CENTER, Service Agency.

DDS No. CS0026453

OAH No. 2025070734

DECISION

Administrative Law Judge Frances M. Valdez, State of California, Office of Administrative Hearings, heard this matter on September 5, 2025, by videoconference.

Claimant was represented by her mother. Claimant was not present at hearing.

Executive Director's designee Jason Toepel appeared for service agency Valley Mountain Regional Center (VMRC).

The matter was submitted for decision on September 5, 2025.

ISSUE

Is claimant eligible under the Lanterman Developmental Disabilities Services Act (the Lanterman Act, Welf & Inst. Code, § 4500 et seq.) for services through VMRC?

FACTUAL FINDINGS

1. Claimant was born in June 2020. She is five years old and lives with her parents and sibling.

2. Claimant's parents became concerned about claimant's development when claimant was approximately 18 months old. Claimant's eye contact decreased, and she became less communicative and social.

3. In April 2023, VMRC staff members evaluated claimant and determined she was provisionally eligible for regional center services due to deficits in self-direction and self-care. Additionally, VMRC identified that claimant may have autism. VMRC encouraged claimant to receive therapies and treatments to address any potential cognitive, communication, adaptive, and social needs. VMRC recommended that claimant receive a psychological evaluation.

4. Before claimant turned five years old, VMRC staff members evaluated whether she was eligible for ongoing services under the Lanterman Act. In March 2025, a clinical team that included a psychologist, physician, and service coordinator reviewed the evidence and determined that claimant did not satisfy eligibility criteria for full eligibility for Lanterman Act services. Claimant's mother timely appealed on her behalf.

Eligibility Determination

5. Michele Thomason, Ph.D., a clinical psychologist, conducted a remote psychological evaluation of claimant on August 14, 2023. For the assessment, Dr. Thomason observed claimant by videoconference, interviewed claimant's mother, reviewed records, and administered the following tests: the Developmental Profile, Fourth Edition;¹ the Adaptive Behavior Assessment System, Third Edition (ABAS-3); and the Childhood Autism Rating Scale, 2d Edition (CARS-2).

6. Dr. Thomason reviewed claimant's relevant history. On an unspecified date before August 2023, claimant was assessed and found not to have autism. Claimant received developmental therapy before turning three years old. Dr. Thomason reported that claimant was assessed by the school district, but did not qualify for special education services at that time.

7. Dr. Thomason noted that claimant's development was assessed when she was 26 months old using the Developmental Assessment of Young Children, Second Edition (DAYC-2). The DAYC-2 measured claimant's progress in the following domains: cognitive, fine motor, gross motor, expressive communication, receptive communication, social emotional, and adaptive. Claimant did not present with a global delay in development or significant delays in any of the areas assessed.

¹ The remote psychological evaluation refers to both the third and fourth editions of the test. It is unclear from the record which edition was administered to assess claimant.

8. Dr. Thomason administered the Developmental Profile, which asked claimant's parent a series of questions about claimant's skills in various domains. The domains include physical, adaptive behavior, social-emotional, cognitive, and communication. Claimant scored in the average range, with percentile ranks ranging from the 27th percentile to the 82nd percentile.

9. The ABAS-3 was completed by claimant's mother. Claimant scored in the average range for conceptual skills. Claimant scored in the superior range for social skills. Claimant's practical skills fell in the below average range. Dr. Thomason noted that she felt claimant's adaptive scores may over-estimate her abilities based on claimant's presentation during the assessment. Dr. Thomason wrote that it can be challenging for parents to rate their child's behaviors in a quantitative fashion.

10. Dr. Thomason administered the CARS-2 to assess claimant for the presence of autism. Autism-type symptoms were observed and claimant's symptoms fell in the mild to moderate range.

11. Based on her review of documents and the evaluation, Dr. Thomason concluded that Autism Spectrum Disorder (ASD) was the diagnosis that best summarized claimant's behavior and symptoms. Dr. Thomason diagnosed claimant with ASD level 1 (the lowest level) for social communication and level 1 for restrictive, repetitive behaviors.

12. In March 2025, an interdisciplinary team at VMRC concluded that claimant does not meet the criteria for eligibility under the Lanterman Act. The interdisciplinary team was comprised of: John Chellsen, Ph.D., VMRC clinical psychologist; Felipe Dominguez, M.D.; and Christina Yanez, VMRC service coordinator. VMRC documented its determination on a VMRC eligibility review form, which

contains several errors. First, under "qualifying condition," the form erroneously states "no autism spectrum disorder." But later in the same document VMRC acknowledges that claimant has been diagnosed with ASD. Second, the rationale for the eligibility determination lists an incorrect date for Dr. Thomason's evaluation.

At hearing, Roxann Wright, Psy.D., VRMC acting staff psychologist, testified that typically for an eligibility review the service coordinator compiles a series of documents from programs, evaluations, parents, and the claimant's school. The compiled documents are reviewed by a psychologist and a physician who make independent eligibility determinations. The result of their opinions culminates in a determination of eligibility.

Here, it appears the only criteria used to determine claimant was not eligible for services in 2025 were the tests conducted by Dr. Thomason in August 2023. The VMRC eligibility review form does not list any other tests, evaluations, or other documents that informed the eligibility determination.

13. Dr. Wright testified at hearing that she does not believe claimant is substantially disabled. Dr. Wright reviewed Dr. Thomason's remote psychological evaluation and concurred with the eligibility team.

14. Dr. Wright opined that claimant's average range score in the ABAS-3 self-care subtest showed she was not substantially disabled in the area of self-care; claimant's superior score in the ABAS-3 communication subtest, her average range score in the Developmental Profile, and no significant delays in the DAYC-2 showed she was not substantially disabled in the area of expressive and receptive language; claimant's very superior score in the ABAS-3 functional pre-academics subtest, her average range score in cognitive ability in the Developmental Profile, and no

significant delays in the DAYC-2 showed she was not substantially disabled in the area of learning; claimant's superior range score in the ABAS-3 for motor skills, her average range score in the Developmental Profile physical domain, and no significant delays in the DAYC-2 showed claimant was not substantially disabled in the area of mobility; and claimant's below average score for the ABAS-3 self-direction subtest did not indicate a significant deviation that would cause a substantial disability in self-direction.

15. Dr. Wright opined that consumers with significant functional limitations in three areas of life are typically diagnosed with ASD level 2 and are eligible for special education services through their school district. Dr. Wright stated that claimant likely requires some support, but not significant support.

16. Dr. Wright maintained her conclusion that claimant is not substantially disabled even after hearing testimony regarding claimant's current behaviors. Dr. Wright opined that claimant's current behaviors are consistent with a mild to moderate diagnosis of ASD.

Claimant's Evidence

17. Claimant's mother believes claimant needs support and services, and she should qualify as eligible for services under the Lanterman Act. Claimant's mother believes claimant's ASD is a substantial ongoing disability. Claimant's mother describes claimant as intelligent, but her autistic behaviors prove challenging.

18. Claimant's mother reports that she experiences frequent sensory overload, particularly in public or unfamiliar environments. Claimant's behaviors include repetitive movements, vocalizations, and hand flapping. Claimant's mother testified that these behaviors occur during most of the day, interfere with claimant's

ability to participate in activities, and require consistent monitoring and redirection. For example, claimant's mother monitors her while eating to ensure she does not choke because of her repetitive movements.

19. Claimant's mother reports that she frequently elopes. To keep claimant safe at home, claimant's mother: installed a video camera in claimant's room that sounds an alarm when she gets out of bed, locks doors in the home with a security bolt, and installed a gate at the front of the house. Claimant receives guidance from the car to her home or classroom.

20. Claimant's mother testified that she refuses to make eye contact even when her name is called. She speaks to others with her face to the side and without looking at the listener's face.

21. Claimant's mother reports that claimant requires constant supervision and guidance. Claimant has difficulty engaging in activities for more than five minutes. Claimant screams during transitions and is sensitive to crowds and noise. Claimant needs help with dressing, using the restroom, and brushing her teeth. Claimant is not toilet trained at night.

22. Claimant attends a special needs gymnastics class that is designed to meet her sensory and social needs. It is one of the few activities in which claimant can participate safely and successfully. Claimant previously attempted to attend a traditional gymnastics class but was unable to participate successfully.

23. Claimant's mother reports that claimant's teacher believes she would benefit from a 504 plan.

24. Claimant has not had any assessments or evaluations conducted by professionals outside of VMRC. Claimant's mother seeks an updated assessment to evaluate claimant's current level of functioning.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4500 et seq.) Lanterman Act services are provided through a statewide network of private, nonprofit regional centers, including VMRC. (*Id.*, § 4620.)

2. Claimant bears the burden of establishing that she qualifies under the Lanterman Act for regional center services.

3. A "developmental disability" potentially qualifying a person for services under the Lanterman Act is "intellectual disability, cerebral palsy, epilepsy, [or] autism," or any other condition "closely related to intellectual disability or [requiring] treatment similar to that required for individuals with an intellectual disability." (Welf. & Inst. Code, § 4512, subd. (a)(1); see Cal. Code Regs., tit. 17, § 54000, subd. (a).) The matters stated in Factual Finding 11 confirm that claimant has a developmental disability, ASD, potentially qualifying her for Lanterman Act services.

4. A qualifying disability must be "substantial," meaning that it causes "significant functional limitations in three or more of the following areas of major life activity . . . : (A) Self-care. (B) Receptive and expressive language. (C) Learning. (D) Mobility. (E) Self-direction. (F) Capacity for independent living. (G) Economic self-sufficiency." (Welf. & Inst. Code, § 4512, subds. (a)(1), (l)(1); Cal. Code Regs., tit. 17,

§ 54001, subd. (a)(2).) For a child as young as claimant, only the first five of these seven activities are relevant.

5. Rather than being temporary, substantial disability qualifying a person for Lanterman Act services must be, or must be reasonably likely to be, lifelong. (Welf. & Inst. Code, § 4512, subd. (a)(1) [a developmental disability "continues, or can be expected to continue, indefinitely"]; Cal. Code Regs., tit. 17, § 54000, subd. (b)(2).) The evidence did not establish whether claimant's disability is likely to be lifelong. (Factual Findings 1-24.)

6. It is undisputed that claimant meets the diagnostic criteria for ASD, an eligible condition. However, the evidence failed to establish that claimant has significant functional limitations in three relevant areas of major life activity. The assessment conducted by Dr. Thomason in August 2023 revealed that while claimant experiences challenges in certain areas, claimant did not demonstrate significant functional limitations. Claimant's mother testified credibly that claimant exhibits challenging behaviors that are associated with her ASD diagnosis. Without a medical or psychological clinical diagnostic evaluation for claimant establishing substantial limitations in accordance with the Lanterman Act, the evidence available to VMRC in June 2025 does not establish claimant's eligibility for Lanterman Act services. Accordingly, claimant has failed to meet her burden of establishing that she is eligible for regional center services at this time.

ORDER

Claimant's appeal is denied. As of her fifth birthday, in June 2025, claimant had not established her eligibility under the Lanterman Act for services from VMRC.

DATE:

FRANCES M. VALDEZ

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 a 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.