

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

In the Matter of:

CLAIMANT

and

ALTA CALIFORNIA REGIONAL CENTER, Service Agency

DDS No. CS0028696

OAH No. 2025080023

DECISION

Timothy J. Aspinwall, Administrative Law Judge, Office of Administrative Hearings, State of California, serving as a hearing officer, conducted a fair hearing on September 11, and November 17, 18 and 20, 2025, by videoconference from Sacramento, California.

Claimant was represented by his mother. The names of Claimant and his mother are omitted to protect their privacy and confidentiality.

The Service Agency, Alta California Regional Center (ACRC), was represented by Robin M. Black, Legal Services Manager.

Evidence was received and the record was held open for the parties to submit written closing arguments, which were received. The record was then closed and the matter deemed submitted for decision on December 12, 2025.

ISSUE

Is Claimant eligible for services from ACRC under the Lanterman Developmental Disabilities Services Act, Welfare and Institutions Code section 4500 et seq. (Lanterman Act) because of autism spectrum disorder (ASD)?

FACTUAL FINDINGS

Jurisdiction and Background

1. ACRC provides funding for services and supports to persons with developmental disabilities under the Lanterman Act.
2. Claimant is five years of age. He resides with his mother and father in their family home in Woodland, California.
3. In October 2020, Claimant was found eligible for the Early Start Program and began receiving Early Intervention Services. Sometime close to Claimant's third birthday, ACRC found Claimant provisionally eligible for ACRC services. He was transferred to ACRC children's unit where he has been receiving services. Sometime close to Claimant's fifth birthday, ACRC reassessed Claimant to determine whether he is eligible for ongoing regional center services. Following an assessment including a psychological evaluation in June 2025, ACRC issued a Notice of Action (NOA) dated

July 24, 2025, denying Claimant's request for eligibility under the Lanterman Act. On July 24, 2025, Claimant's mother appealed ACRC's denial. This hearing followed.

Psychological Evaluation and Testimony of Haleigh Scott, Ph.D.

4. On June 25, 2025, Dr. Scott conducted a psychological evaluation of Claimant pursuant to a referral from ACRC. Dr. Scott prepared a written evaluation report, in which she stated her opinion that Claimant "demonstrates a range of social communication skills that are not characteristic of autism" and that he "displays clear symptoms consistent with attention-deficit/hyperactivity disorder (ADHD)." Dr. Scott diagnosed claimant with ADHD, combined presentation, and unspecified trauma- and stressor-related disorder.

5. Dr. Scott's evaluation procedures included: an interview of Claimant's parents; in-person behavioral observations of claimant; review of documents including medical records; a diagnostic telehealth evaluation by Ashley Berry, Psy.D.; a Woodland Joint Unified preschool assessment; an occupational therapy evaluation; an independent educational evaluation by Amy Burns Merenda; Individual Education Program (IEP) documents from 2023 through 2025; and administration of tests including the Stanford-Binet Fifth Edition (SB-5); Vineland Adaptive Behavior Scales-Third Edition (VABS-3), and Autism Diagnostic Observation Schedule (ADOS-2).

6. The SB-5 is a test designed to measure general thinking and reasoning skills. It results in a full-scale intelligence quotient (FSIQ). Claimant's test results showed a FSIQ of 93 which is in the 32nd percentile (average range), and reflects a composite of both verbal and nonverbal reasoning skills. Overall, claimant's intellectual functioning is in the average range, with stronger performance in nonverbal tasks.

7. The VABS-3 is a standardized measure of adaptive skills used in everyday life. Claimant's mother completed the assessment. The assessment includes three individual domains: communication, daily living, and socialization as well as an adaptive behavior composite score. Claimant's adaptive behavior composite score was in the fifth percentile (below average range). He scored in the fourth through seventh percentile in the three individual domains (below average ranges).

8. The ADOS-2 is a semi-structured tool designed to create opportunities to observe and evaluate the social interaction, communication, and play of individuals who are suspected of having ASD. Claimant was assessed using Module 2, which is designed to be used with children.

9. Dr. Scott did not administer the ADOS-2 according to the protocol as the test is designed to be administered. The ADOS-2 is designed to be administered in an office setting. Dr. Scott administered a portion of the test activities in the office. Dr. Scott assessed other test activities fully or only partially while outdoors while walking with Claimant to and from a park and watching him play outside. Dr. Scott opted to do this because Claimant had reached a point in her office where he no longer wanted to be indoors. Dr. Scott conceded that she could have asked Claimant's parents to bring Claimant back on another day to administer the ADOS-2 consistent with testing protocol. She did not do so, and for this reason did not provide a score on the test. However, Dr. Scott made qualitative observations of claimant, including his social skills while outside, which she opined were typical of a child Claimant's age and not consistent with an ASD diagnosis.

Psychological Evaluation by and Testimony of Gabriella Ruzin, Psy.D.

10. On August 4, 2025, Dr. Ruzin conducted a psychological evaluation of Claimant to determine whether he meets the diagnostic criteria for ASD. Dr. Ruzin prepared a written evaluation report, in which she stated her opinion that Claimant's presentation is consistent with ASD. For example, he has difficulty with "social-emotional reciprocity, emotion identification, and ability to speak to relationships with others." Claimant "also demonstrated mostly flat affect, limited range of facial expressions, and was observed to engage in repetitive behaviors." An ASD diagnosis can be assigned severity levels of 1 through 3, with level 1 being the least severe, and 3 being the most severe. Dr. Ruzin diagnosed Claimant with ASD, Level 2.

11. Dr. Ruzin conducted her evaluation remotely via videoconference. Her evaluation procedures included: an interview of Claimant's mother; behavioral and developmental observations of claimant; review of documents including medical records, Dr. Scott's written evaluation, and a previous telehealth evaluation; and administration of tests including the Social Responsiveness Scale, Second Edition (SRS-2), ADOS-2, Childhood Autism Rating Scale, Second Edition (CARS-2), and Developmental Profile, Fourth Edition (DP-4).

12. Dr. Ruzin did not administer the ADOS-2 according to standard protocol, but modified the administration of the test for telehealth. For example, she was not able to administer certain elements such as the "construction task" or engage in activities such as "make-believe play" by videoconference. Because of the departures from the standard protocol, Dr. Ruzin did not score the ADOS-2. However, she made qualitative observations including that Claimant "struggles to engage in conversation and was easily distracted" and that he "maintained flat affect for the duration of the evaluation and showed minimal regard for the evaluator." Dr. Ruzin characterized the

ADOS-2 as the "gold standard" for autism assessments and opined that it should be administered even if it cannot be scored.

13. Dr. Ruzin used the CARS-2 to assess Claimant's social and communication skills based on the range of sources including video observations, direct interview, parent history, and review of clinical records. The CARS-2 is intended to provide quantitatively specific summary information that can be used to develop diagnostic hypotheses. Dr. Ruzin rated the summary information, which resulted in scores consistent with an ASD diagnosis.

14. The SRS-2 is a checklist designed to measure the degree of social impairment associated with autism. Claimant's mother completed the SRS-2. The resulting scores were consistent with an ASD diagnosis in the moderate to severe range.

15. The DP-4 is a checklist designed to assess development and functioning of children in the areas of physical, adaptive behavior, social-emotional, cognitive, and communication. Claimant's mother completed the DP-4. Claimant's scores indicate that he is functioning in the delayed to average range across the measured domains. Dr. Ruzin's report notes that the ratings are based on parent-report and may or may not reflect abilities that would be demonstrated by direct assessment.

Selected Clinical Documents and Evaluations

16. Stephen T. Nowicki, M.D., Ph.D., is a board-certified developmental and behavioral pediatrician with Dignity Health in Woodland, California. Claimant is under his medical care. Dr. Nowicki prepared a letter dated August 28, 2025, to whom it may concern. Dr. Nowicki stated in his letter that "[b]ased on [his] professional experience and evaluation, [Claimant] meets the diagnostic criteria for Autism Spectrum Disorder."

Dr. Nowicki's diagnosis is "supported by two [unnamed] independent psychologists and the school." Dr. Nowicki opined that Claimant's challenges in the areas of social interaction and communication, behavioral regulation and flexibility, and a daily living and independence skills, "cannot be explained by ADHD alone and are best understood within the framework of Autism Spectrum Disorder."

17. Adriana Echandia-Butler is a school psychologist with the Woodland Joint Unified School District. She assessed Claimant and prepared a report dated June 20, 2024. The purpose of her assessment was to determine whether Claimant meets special education eligibility criteria for ASD, as defined in the Individuals with Disabilities Education Act. She noted in her report that the assessment is not based on the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) diagnostic criteria. Her assessment included background information through interviews with Claimant's parents and preschool teacher, observations of Claimant in the classroom, and administration of diagnostic assessments including the CARS-2, SRS-2, and the Vineland Adaptive Behavior Scales, Third Edition (Vineland-3). Based on her observations, interviews, and the assessment results, Adriana Echandia-Butler opined that Claimant shows mild to moderate behaviors associated with ASD, and therefore meets the criteria for special education services.

18. Ashley Berry, Psy.D., conducted a diagnostic telehealth evaluation of Claimant on January 3, 2024, and prepared a written report. Her evaluation included a clinical interview, video review, record review, an autism symptom inventory, and administration of assessments including a modified ADOS-2, DP-4, and CARS-2. The modified ADOS-2 was not scored. Claimant's mother completed the DP-4, and her responses indicate Claimant has below average development, with the notable weakness in adaptive skills. On the CARS-2, Claimant showed mild-to-moderate ASD

symptoms. However, Dr. Berry's written report notes that the CARS-2 as administered is not normed for telehealth observation, and "results should be interpreted with caution." Dr. Berry diagnosed Claimant with ASD with an accompanying language impairment. However, she recommended that Claimant should be reassessed in two to three years "due to a level of diagnostic uncertainty with his current presentation."

Testimony of Catarina Juan Fishman, Psy.D.

19. Dr. Juan Fishman has been employed as a staff psychologist at ACRC since 2022. Dr. Juan Fishman has been licensed as a psychologist in California since 2020. She has experience performing assessments for developmental disabilities and interpreting psychological evaluations and differential diagnoses. Dr. Juan Fishman spends approximately 80 percent of her time at ACRC reviewing psychological evaluations performed by other psychologists.

20. Dr. Juan Fishman participated with the ACRC eligibility assessment team regarding Claimant. Prior to hearing, she reviewed the records presented in evidence by ACRC including the psychological evaluations prepared by Dr. Scott and Dr. Ruzin. She did not independently evaluate Claimant. Based on the documents she has reviewed, Dr. Juan Fishman does not believe Claimant has ASD.

Testimony of Claimant's Mother

21. Claimant's mother testified regarding her experience with and observations of Claimant. She first sought regional center services for Claimant because of speech delays and early problems with eye contact. She continues to observe symptoms consistent with an ASD diagnosis. In the area of receptive and expressive language, Claimant misinterprets social cues and has difficulty maintaining non-scripted reciprocal conversation. In the area of self-care, Claimant needs

prompting for hygiene including brushing his teeth and initiating tasks such as getting dressed. In the area of learning, Claimant needs repeated instruction.

22. Claimant struggles with rigidity and meltdowns, has significant executive function impairment, becomes extremely upset when routines are changed without warning, is impulsive and acts without thinking, has difficulty waiting or taking turns, demonstrates repetitive behaviors when he is dysregulated, has daily meltdowns triggered by frustration, gets stuck when something does not go as expected, and relies on adults to figure out the next steps. In the area of self-direction, Claimant can be a danger to himself, needs supervision with his routines, does not recognize danger such as sharp knives or a hot burner, will invite strangers into the home, wander impulsively, and run into traffic.

23. Claimant's mother is a strong believer in early intervention and believes it is necessary to help Claimant learn and grow. She believes Claimant is a testament to how early intervention helps. She feels a denial of regional center services would harm Claimant's development and cause regression.

Analysis

24. The evidence in this matter is inconclusive. Specifically, the ADOS-2 was not administered by any of the evaluating psychologists consistent with protocol such that Claimant's performance could be scored. As a consequence, Dr. Scott and Dr. Ruzin relied on qualitative observations. The unresolved problem here is that they disagree regarding the diagnostic indications of their respective observations, but neither have an objective ADOS-2 score on which to base an opinion. Given that the ADOS-2 is viewed as the "gold standard" in ASD diagnoses, the lack of an objective score in the face of expert disagreement is significant.

25. Dr. Berry's diagnosis is given little weight with respect to Claimant's present diagnosis given that she recommended in her report dated January 2024, that Claimant should be reassessed in two to three years "due to a level of diagnostic uncertainty with his current presentation."

26. Adriana Echandia-Butler's diagnosis is given little weight because the purpose of her assessment was to determine whether Claimant meets special education eligibility criteria for ASD, as defined in the Individuals with Disabilities Education Act, and that the assessment is not based on the DSM-V diagnostic criteria.

27. Dr. Nowicki's expertise and understanding of Claimant, his patient, is acknowledged here. However, he did not explain how he arrived at his diagnosis of Claimant. Moreover, the reports prepared by psychologists Dr. Ruzin and Dr. Berry, and the school psychologist Adriana Echandia-Butler, do not provide convincing support for his diagnosis of Claimant, for the reasons summarized above.

28. Dr. Juan Fishman's testimony has been considered. Based on the evidence in this matter, her testimony does not make the written evaluation reports submitted by Dr. Scott and Dr. Ruzin either more or less persuasive.

29. The observations and concerns expressed by Claimant's mother have been carefully considered. Claimant's mother was clear and credible in her descriptions of her son's emotions and behaviors. Her deep concern for her son's well-being is abundantly clear; she wants what is best for him. She believes her son has ASD and that he is for that reason eligible for ACRC services and supports. However, in the absence of persuasive clinical evidence, the observations of Claimant's mother are not sufficient to establish an ASD diagnosis or to determine eligibility for ACRC services.

30. On the question of whether Claimant meets the criteria for an ASD diagnosis, it is essential to note that for purposes of this Decision, Claimant bears the burden of proof by a preponderance of the evidence. As a practical matter, that means Claimant's appeal must be denied if there is not a preponderance of evidence in support of a finding that Claimant has ASD. In this matter, the evidence considered as a whole, and particularly the psychological evaluations, is inconclusive on the question of whether Claimant has ASD.

31. For all the foregoing reasons, and considering all the evidence presented, a finding cannot be made by the preponderance of the evidence at this time that Claimant has ASD. Therefore, Claimant's appeal must be denied. However, Claimant is not precluded from presenting additional information to ACRC for consideration or from applying for ACRC services in the future.

LEGAL CONCLUSIONS

The Burden and Standard of Proof

1. In an administrative hearing, the burden of proof is on the party seeking government benefits or services. (See, e.g., *Lindsay v. San Diego County Retirement Bd.* (1964) 231 Cal.App.2d 156, 161.) In this case, Claimant bears the burden of proving, by a preponderance of the evidence, that Claimant is eligible for services from ACRC under the Lanterman Act because of autism. (Evid. Code, § 115.)

Applicable Law

CARE FOR THE DEVELOPMENTALLY DISABLED

2. Under the Lanterman Act, the State of California accepts responsibility for persons with developmental disabilities and pays for the majority of the "treatment and habilitation services and supports" to enable such persons to live "in the least restrictive environment." (Welf. & Inst. Code, § 4502, subd. (b)(1).) The State Department of Developmental Services is charged with implementing the Lanterman Act and is authorized to contract with regional centers to provide the developmentally disabled access to the services and supports needed. (Welf. & Inst. Code, § 4620, subd. (a); *Williams v. State of Cal.* (9th Cir. 2014) 764 F.3d 1002, 1004.)

ELIGIBILITY FOR REGIONAL CENTER SERVICES

3. Eligibility for regional center services and supports is dependent on the person having a "developmental disability" that: (1) originated before he reached 18 years of age; (2) is likely to continue indefinitely; and (3) constitutes a substantial disability. (Welf. & Inst. Code, § 4512, subd. (a)(1).) Under the Lanterman Act, "developmental disability" includes intellectual disability, cerebral palsy, epilepsy, autism, and disabling conditions found to be closely related to or require treatment similar to that required for individuals with an intellectual disability. (*Ibid.*)

Disposition

4. Considering the Factual Findings and Legal Conclusions as a whole, Claimant did not meet his burden of establishing by a preponderance of evidence that he has ASD or any other developmental disability that would qualify him to receive services from ACRC under the Lanterman Act. For these reasons, Claimant's appeal

must be denied. However, nothing in this Decision should be taken to discourage or prevent Claimant from presenting additional information to ACRC in favor of eligibility or appealing any future denial for ACRC services.

ORDER

Claimant's appeal is DENIED.

DATE: December 22, 2025

TIMOTHY J. ASPINWALL

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.