

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

In the Matter of:

CLAIMANT

and

EASTERN LOS ANGELES REGIONAL CENTER,

Service Agency

DDS No. CS0028680

OAH No. 2025080112

DECISION

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on November 18, 2025.

Jacob Romero, Fair Hearing Coordinator, represented the Eastern Los Angeles Regional Center. Claimant was represented by his authorized representative, his Foster Parent. Titles instead of names are used to protect privacy and confidentiality.

This matter is governed by the Lanterman Developmental Disabilities Services Act (Lanterman Act), codified as Welfare and Institutions Code sections 4500 through 4885.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on November 18, 2025.

STATEMENT OF THE CASE

Evaluated and found eligible under the Lanterman Act, Claimant is receiving services. Nevertheless Foster Parent believes a doctor should re-evaluate Claimant so that he may be diagnosed with autism, also known as autism spectrum disorder (ASD). Claimant's evidence did not make clear how a fair hearing might have a significant effect on Claimant's rights, health, well-being, or the status quo.

FINDINGS OF FACT

1. The Service Agency sent its Notice of Action (NOA) on July 16, 2025. Claimant's request for a hearing was timely on July 23, 2025.

2. Claimant is four years old and lives with his Foster Parent.

Basis for Claimant's Eligibility

3. A memorandum, the Service Agency's October 3, 2024 Eligibility Determination, states that Claimant is eligible for services based on a diagnosis of intellectual disability (ID). The memorandum states further, Exhibit 4, page A26: "Eligible on F88 Global Developmental Delay. Borderline cognitive delays noted. Mild adaptive deficits noted." The F88 code is found in the International Statistical Classification of Diseases and Related Health Problems, 10th Revision (ICD-10), and refers to various disorders of psychological development.

July and August 2024 Psychological Evaluation

4. The determination of eligibility was based on an evaluation of Claimant conducted by Angelica Gonzales, PsyD, BCBA, Director of Diagnostic Assessments, Easterseals Southern California. The evaluation by Dr. Gonzales occurred on July 29, 2024, and August 22, 2024. Dr. Gonzales used several tests to assess whether Claimant might have ASD symptoms, but she found that such symptoms as he exhibited were not at a level to make an ASD diagnosis appropriate.

5. For example, Dr. Gonzales administered the Autism Diagnostic Interview–Revised (ADI-R), a structured interview tool that poses questions about the subject to people who know the subject, such as parents. Claimant did not meet the cutoff in two of three areas scrutinized. He did meet the cutoff relating to communication, however.

6. Dr. Gonzales also administered the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), Module 1, a standardized activity-based assessment tool. This test indicated minimal or no evidence of ASD. Dr. Gonzales noted further that observing Claimant and review of his records indicated behaviors inconsistent with an ASD diagnosis. She wrote that Claimant did not exhibit impairments in his social communication. He showed interest in peers, interaction with others, and social eye contact. He engaged in emerging functional play. He had not developed imaginative play, however, or learned how to share with others.

7. Dr. Gonzales noted some sensory issues, such as biting his lip and chewing on clothing, but he did not display unusual preoccupations, rigidity, or restrictive and repetitive behaviors. There appears to be a typographical error in her conclusion, but it should read, Exhibit 3, page A22: "Taken together these results indicate that [Claimant] does [not] meet the criteria for autism spectrum disorder as

set forth by the DSM-5." The DSM-5 is the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, widely used and considered authoritative by psychologists in evaluating mental disabilities.

August 2024 Preschool Psycho-Educational Assessment

8. On August 12, 2024, School Psychologist (SP) Shahin Ansari, Los Angeles Unified School District (LAUSD), Division of Special Education, Psychological Services Region South, conducted a Preschool Psycho-Educational Assessment to see whether Claimant might have a Specific Learning Disability (SLD). SLD is a psychological disorder that, as described in California Code of Regulations, title 5, section 3030, subdivision (b)(10), inhibits understanding or using language, sometimes exhibited in an imperfect ability to listen, think, speak, read, write, spell, or do mathematics. Based on several tests, including observing Claimant, SP Ansari wrote, Exhibit 5, page A42: Claimant's school readiness skills "appear to be developing as expected given his school experience and age"; Claimant did not meet the eligibility criteria for SLD. SP Ansari noted that Claimant's "cognitive abilities fall within the average range."

January 2025 Preschool Psycho-Educational Assessment

9. On January 9, 2025, Sherymer Copon Unguez, MA, of LAUSD's Division of Special Education, Psychological Services Region South, conducted another Preschool Psycho-Educational Assessment for the District. She concluded that Claimant met the criteria for autism. The conclusion was based on findings: (i) Claimant's verbal and nonverbal communication and social interaction are significantly affected; (ii) his resistance to environmental change or change in daily routines; (iii) repetitive activities and stereotyped movements; and (iv) unusual responses to sensory experiences. It

should be noted, however, that a school district's criteria for autism are different from those required for a regional center to find autism or ASD.

10. Ms. Unguez used the criteria for autism in California Code of Regulations, title 5, section 3030, subdivision (b)(1): a developmental disability significantly affecting communication and social interaction that adversely affects educational performance, often associated with repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

January 2025 IEP

11. After the diagnosis of Global Developmental Delay, noted above, Foster Parent requested that LAUSD re-evaluate Claimant. Claimant's resulting Individualized Education Program (IEP), following a January 30, 2025 meeting, stated, Exhibit 10, page A56:

Overall, [Claimant's] current functioning in cognition/general ability is estimated to be in the average range based on [tests] performance . . . and information gathered via observation and interview

It was further noted Claimant:

was able to demonstrate adequate skills in receptive language [and] . . . strengths in visual reception, fine motor, receptive language, and expressive language. No major needs or challenges were identified at this time.

///

12. In a February 19, 2025 note, the Los Angeles General Medical Center advised it was unable to accept Claimant as a patient for occupational therapy (OT) services. On February 20, 2025, Heike Ballmaier, PsyD, BCBA-D, a clinical psychologist at the Service Agency, reviewed Claimant's psychological record, in particular a January 28, 2025 Preschool Psycho-Educational Assessment that is not in the record. She noted, Exhibit 6, page A46, that the assessment described several difficulties Claimant was having, but she found them inconsistent with other reports and noted further that Claimant had not been found: "to exhibit impairments in social communication, was able to modulate his eye contact, and only minor sensory issues were reported." Dr. Ballmaier concluded: "In light of all available records . . . it is not recommended that a diagnosis of Autism Spectrum Disorder be added to [Claimant's] diagnostic profile."

13. In a note on June 26, 2025, Laura Figueroa-Phillips, MD, stated she had diagnosed Claimant with ASD and requested that the Service Agency evaluate him for ASD.

October 2025 IEP

14. Claimant's IEP following an October 9, 2025 meeting stated that he would participate in the general education setting and curriculum with support from the Resource Specialist Program (RSP) along with language and speech (LAS) support.

15. Foster Parent chose not to testify during the hearing. She urged that Claimant's diagnosis be changed or supplemented to show ASD to expedite his receipt of certain services: Applied Behavior Analysis (ABA), OT, and speech services. The Service Agency has expedited ABA, so that it began in October 2025. The Service Agency has also assisted Foster Parent in following up with LAUSD on her efforts to arrange for speech and OT services. So far, Claimant has been approved and has been

receiving from an LAUSD resource specialist one hour per month, that is, five minutes per day, of speech services. There is a shortage of personnel at LAUSD qualified to provide more speech services. The parties agreed that speech services from the school are a step in the right direction, but not enough. Fair Hearing Coordinator Jacob Romero stated on the record that the Service Agency would work with Foster Parent to ensure that as far as practicable Claimant has speech services and any therapies he may need.

LEGAL CONCLUSIONS

PRINCIPLES OF LAW

1. The party advocating a change in government benefits or in the status quo has the burden of proof, Claimant in this case. Under Evidence Code sections 115 and 500, the standard of proof Claimant must meet is proof by a preponderance of the evidence.

2. Welfare and Institutions Code section 4646 sets out how consumers, their family members as appropriate, and a regional center should cooperate as a "planning team" to prepare the individual program plan (IPP), the outline of services and supports that will benefit a consumer. Perhaps most pertinent here is subdivision (d) of the section, providing that IPP's:

shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by

agreement between the regional center representative and the consumer or, if appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.

3. As provided in Welfare and Institutions Code section 4659.10, the Service Agency is the "payer of last resort." This means that funding for services and supports must be obtained if possible from generic resources, those available to the public generally, such as school districts or private insurance. With no exception applicable here, the Service Agency may fund services and supports only if there is no other available source of funding.

ANALYSIS

4. The evidence shows that Claimant has been tested and evaluated comprehensively, including for possible ASD. The evidence further shows that Claimant's behaviors do not provide reason, or not reason enough, for a diagnosis of ASD from the Service Agency's psychological professionals. The lack of such a diagnosis has not prevented a finding that Claimant is eligible for services under the Lanterman Act, even for those typically associated with persons who have ASD, like ABA. He is benefitting from services that would be appropriately funded by the Service Agency if they were not available from generic resources.

5. The evidence does not show that a diagnosis of ASD, or any diagnosis in addition to or different from Claimant's current diagnoses, will be more to his benefit or result in his receiving more or different services or that any services will be more speedily provided. The parties agree that so far Claimant has received too few or inadequate services from the school district, but Claimant did not establish that an

order for such services funded by the Service Agency based on a new diagnosis of ASD from the Service Agency, as opposed to the school district, is appropriate at this time.

6. Claimant's appeal is in certain ways premature. There is no dispute that Claimant should have more services, or rather increased time for some services, such as speech services. A diagnosis of ASD from the Service Agency will not resolve any current issue. The Service Agency is working with Foster Parent to obtain from generic resources such services as would benefit Claimant. This is appropriate under Welfare and Institutions Code section 4659.10, because the Service Agency is the payer of last resort. The time may come when the Service Agency must step in and fund services if the school district does not, but that time has not arrived quite yet.

7. Foster Parent is obligated, just as much as the Service Agency, to honor the letter and the spirit of the law in Welfare and Institutions Code section 4646. The parties must work together, as it seems they have been doing, to formulate a joint plan, in an IPP. The parties at present appear to have no dispute that must be resolved by appeal. The exception is this appeal that the Service Agency should diagnose Claimant with ASD but, as stated above, the evidence does not support such a diagnosis at this time.

///

///

///

///

///

ORDER

Claimant's appeal is denied. Service Agency is not required to re-evaluate Claimant at this time to determine whether he should be diagnosed with ASD.

DATE:

THOMAS LUCERO

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.