

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

In the Matter of:

CLAIMANT,

and

NORTH BAY REGIONAL CENTER, Service Agency.

DDS No. CS0030386

OAH No. 2025090984

DECISION

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on November 10, 2025, via videoconference.

Claimant's mother represented claimant, who was not present.

Fair Hearing Specialist Alexandra Evans represented North Bay Regional Center (NBRC), the service agency.

The matter was submitted on November 10, 2025.

ISSUE

Is claimant eligible for regional center services on the grounds that she is substantially disabled by autism?

FACTUAL FINDINGS

Jurisdiction

1. NBRC issued a notice of action denying eligibility to claimant with a stated effective date of June 17, 2025.

2. Claimant timely appealed and this proceeding followed. Claimant contends that she is eligible for regional center services on the grounds that she is substantially disabled by autism.

Background and Special Education Records

3. Claimant was born in January 2018. She is almost eight years old and currently in second grade.

4. In 2022, when claimant was in preschool, she was found eligible for special education services, based on speech difficulties. She received speech therapy. In November 2024, claimant agreed to the termination of such services because she was no longer eligible. The school district reported that “[a]ccording to standardized and nonstandardized assessment results all areas of [claimant’s] communication skills are considered within normal limits” and a pragmatic language test showed claimant was on the “high end of the average range.” Claimant’s teacher reported that claimant

communicated well with her and her classmates, was “easy to understand and can clearly articulate her thoughts, feelings and emotions.”

Dr. Ruzin’s Report

5. In 2024, claimant’s primary care physician referred her for a formal evaluation for autism spectrum disorder (ASD). In September 2024, psychologists Patrick MacLeamy and Gabriella Ruzin performed such an evaluation and issued a report dated September 26, 2024. At hearing, the parties referred to this report as “Dr. Ruzin’s report.”

6. This evaluation consisted of reviewing records, a clinical interview of claimant’s mother, “direct behavioral and developmental observation of” claimant via videoconference, and formal psychological testing. Dr. Ruzin reported the following:

- Claimant lives with her mother and two siblings.
- Claimant’s mother reported that claimant said her first word at the age of one year, but soon thereafter stopped talking until approximately four years old and did not begin using short phrases in conversation until age five years old.
- Claimant was not toilet trained until four years old and had a history of feces curiosity.
- Claimant has difficulty falling asleep, is sensitive to different clothing materials and loud noises, and is a picky eater. She sometimes overreacts and sometimes underreacts to pain. When claimant was younger, she engaged in self-injurious behaviors, but those behaviors have ceased.

- Claimant's mother reported that claimant is sometimes hyperactive and on other days lethargic.
- Claimant's mother reported that claimant witnessed domestic abuse between her biological parents and was physically and emotionally abused by her father, with whom she no longer has significant contact because he is incarcerated.
- Claimant's mother reported concerns with claimant's "social skills, not her language abilities" because claimant speaks in full sentences, but has difficulties articulating her thoughts and emotions and speaks in a circular manner. Claimant becomes frustrated if the listener does not understand her and "becomes angry and shuts down." Claimant's mother reported that claimant "only talks about herself," takes things literally, does not understand privacy, has trouble recognizing social cues, gets bored quickly in conversations and has trouble engaging in them unless they are on her own terms.
- Claimant has significant difficulty with transitions and gets upset if there are changes to her routine.
- Claimant is able to perform some hygiene tasks, but needs reminders and her mother assists her with many.
- During her direct observation of claimant, Dr. Ruzin observed that claimant was "quite nervous" at the start. Dr. Ruzin observed flat affect.

- Claimant was able to state accurate information about herself and speak in complete sentences, but sometimes appeared to have “difficulty expressing herself and was quite tangential in explanations of events of her day.”
- Dr. Ruzin administered the Wechsler Abbreviated Scale of Intelligence – Second Edition (WASI-II) to claimant. Claimant’s full scale intelligence quotient (IQ) score was 109 and Dr. Ruzin opined that the WASI-II scores “suggest she is functioning at a level as expected or above for her age.”
- Dr. Ruzin utilized the CARS-2 High Functioning rating form (CARS-2 HF) to assess claimant. Dr. Ruzin described the CARS-2 HF as an instrument to “identify high functioning individuals with autism,” based on a variety of sources including clinical records, parent report, and direct observations. Dr. Ruzin reported that claimant’s total raw score of 41.5 on the CARS-2 HF falls within the mild-to moderate range of symptoms of ASD and her “T-score of 62 (88th percentile) falls within the category of ‘very high level of autism related symptoms compared with those with an autism diagnosis.’”
- Dr. Ruzin reported that claimant’s mother completed a Social Responsiveness Scale (SRS-2) checklist meant to measure the degree of social impairment associated with claimant’s autism, and the overall score was in the severe range, which Dr. Ruzin found consistent with her impression of claimant and supported an ASD diagnosis.
- Claimant’s mother completed the Adaptive Behavior Assessment System, Third Edition (ABAS-3), to assess claimant’s functional skills and whether she actually performs the skills without prompting. The ABAS-3 is scored on a

scale with a mean of 100, similar to an IQ score. Claimant's sub domain scores ranged from the extremely low to average range, mostly towards the lower end of the range. She scored extremely low in self-direction and health and safety; low in functional academics, leisure, community use, and self-care. Dr. Ruzin reported that these scores are reflective of claimant's current functioning level, but also noted that the scores are based upon parent report and "may or may not reflect [claimant's] actual abilities."

7. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) was published by the American Psychiatric Association in March 2022. It currently serves as the principal authority for psychological and psychiatric diagnoses in the United States.

8. Dr. Ruzin diagnosed claimant with ASD, Level 2. Pursuant to the DSM-5-TR, there are three levels of severity of an ASD diagnosis and level 2 means "requiring substantial support."

9. Dr. Ruzin opined that claimant qualifies for related behavioral services and she would benefit from "social, communication and behaviorally focused intervention." Dr. Ruzin made several recommendations, including that claimant's family "share the results of this assessment with" NBRC.

10. Dr. Ruzin did not opine as to claimant's eligibility for regional center services or whether she had significant functional limitations in three or more of the relevant areas of major life activity. (See Legal Conclusion 4.)

NBRC's Initial Social Assessment of Claimant

11. On February 19, 2025, Suzette Soviero, M.S., an NRBC intake assessment counselor, met with claimant's mother via videoconference and issued a report.

12. For the most part, claimant's mother reported the same information to Soviero that she had reported to Dr. Ruzin. Claimant's mother reported that hyperactivity was still an issue for claimant and that claimant was being evaluated for anxiety because her primary care physician suspected anxiety might be causing her difficulty with changes to her routine. Claimant's mother reported that claimant bathes independently (if reminded), dresses herself, is a "precise eater," is very athletic, can make a bowl of cereal for herself and uses the microwave if her mother assists with the "numbers."

13. Claimant's mother expressed concern regarding claimant's communication functioning, reporting that claimant uses "additional expressive words, such as "I actually do really like it" and "can I cook me that?" Claimant's mother reported that claimant's receptive language skills are good until she gets overwhelmed, and that she is very sensitive to tone of voice and some obvious facial expressions that she interprets as criticism. Claimant's mother reported that claimant cannot initiate back and forth conversations and instead delivers monologues about her interests. Claimant's mother reported that one-step instructions and directions are best for claimant.

14. Claimant's mother expressed concern regarding claimant's social functioning, emphasizing that claimant stares at other children and has great difficulty getting others to play with her or making friends, but is very protective of her younger

brother, who also has an ASD diagnosis. Claimant's mother reported that claimant is very cautious around dangerous items.

15. Claimant's mother reported that claimant is academically advanced and gets bored in school, but also has a short attention span.

16. Claimant's mother reported that claimant is taking melatonin for sleep and fluoxetine (brand name Prozac, a selective serotonin reuptake inhibitor used to treat various mental health conditions, including depression and anxiety).

17. NBRC did not conduct its own evaluation of claimant, instead relying on the intake assessment and existing records, primarily Dr. Ruzin's report.

Dr. Madigan's Opinions

18. Alyson Madigan, Psy.D., testified at hearing. Dr. Madigan has been licensed as a clinical psychologist in California since 2017. She worked at a psychiatric hospital for eight years and has worked as a psychologist for NBRC since October 2024. She has completed significant training in the assessment of autism. Dr. Madigan was a member of the NBRC team that assessed claimant's eligibility.

19. NBRC does not dispute and the evidence shows that claimant has ASD, a qualifying condition. However, Dr. Madigan reports that the NBRC assessment team concluded that claimant was not substantially disabled by autism because she only had significant functional limitations in one of the seven areas of major life activity set forth in the laws governing eligibility, "self-direction."

20. At hearing, based on her review of recent documents claimant submitted—specifically documents showing that claimant needs significant assistance with personal hygiene, especially dental hygiene—Dr. Madigan revised her previous

opinion that claimant did not have significant functional limitations in self-care. Accordingly, Dr. Madigan opines and the evidence confirms that claimant has significant functional limitations in self-direction and self-care.

21. However, Dr. Madigan opines that claimant does not have significant functional limitations in any of the other five categories.

22. Claimant concedes and the evidence shows that claimant is able to walk without assisted devices and she does not have significant functional limitations in mobility.

23. Dr. Madigan opined that the areas of major life activity of capacity for independent living and economic self-sufficiency are not applicable to individuals under the age of 12 years because there is no expectation that children younger than 12 years could live independently or be economically self-sufficient. Claimant does not dispute this opinion or contend that claimant is eligible based on significant functional limitations in those areas.

24. Accordingly, the disputed issue is whether claimant has significant functional limitations in the areas of (1) learning or (2) receptive and expressive language.

25. Dr. Madigan opined claimant does not have significant functional limitations in learning, based on her average or better academic achievement and standardized test scores across broad categories; IQ score of 109; and the termination of her special education services as unnecessary.

26. Dr. Madigan opined claimant does not have significant functional limitations in receptive and expressive language because: pursuant to her special

education records claimant's communication skills were within normal limits, a pragmatic language test showed claimant on the high end of average, her teacher stated she communicated clearly, and services were terminated as no longer needed; and Dr. Ruzin noted that claimant spoke in complete sentences and answered basic questions, albeit with difficulty expressing some thoughts.

Claimant's Additional Evidence

27. Claimant's mother testified at hearing and submitted recent health and benefits records. Her testimony appeared sincere and was credible.

28. Claimant's mother argues that claimant has significant functional limitations in receptive and expressive language. Claimant's mother emphasized that claimant easily becomes overwhelmed and then becomes non-verbal for minutes or hours, unable to answer even a simple question. For example, if claimant's mother says that she will be "grounded if . . ." claimant panics and misses the condition. When frustrated, claimant "may repeat phrases, mumble to herself, or talk in circles about narrow topics." Claimant's mother reports that these breakdowns occur often throughout the day, especially during academic tasks or transitions. Claimant's mother reports that, even when claimant is verbal, her language is rigid and literal and she cannot understand sarcasm or tone.

29. Claimant's mother reports that claimant was diagnosed with attention deficit hyperactivity disorder (ADHD) and has recently been prescribed lisdexamfetamine (brand name Vyvance, a stimulant) to treat her ADHD symptoms. Claimant's mother argues that she has significant functional limitations in learning, which claimant's mother attributes to the combined effects of her ASD and ADHD. Claimant's mother reports that something claimant learns one day often requires

re-teaching the next day and she cannot integrate feedback or learn from consequences without restitution and supervision. For example, she reports that claimant learned not to touch a hot stove, but will touch other hot things because the context is different. A questionnaire filled out by claimant's current school teacher documents persistent inattention, impulsivity, and disorganization. Claimant's mother argues that NBRC relies too much on standardized testing of claimant in ideal circumstances, but ignores claimant's difficulties learning under "real world" circumstances.

30. Claimant also submitted a form documenting the need for protective supervision for in-home supportive services. Claimant's primary care physician has interacted with claimant many times over the last two and one-half years, and reported that claimant has no memory deficit or disorientation, but her judgment is "severely impaired" because "when dysregulated," she will hit herself, kick walls, bang her head, and has poor awareness of boundaries. He also noted elopement, impulsivity ("turns on stove"), climbing on high surfaces, "unbuckling seatbelt while car moving," and that claimant will touch hot objects. Under "Diagnosis/Mental Condition," he noted autism and ADHD.

Ultimate Findings

31. It is undisputed and the evidence shows that claimant has significant functional limitations in self-direction and self-care, due to her ASD.

32. Claimant did not show that she has significant functional limitations in any of the other five areas of major life activity, as appropriate to her age. Claimant concedes that she does not have significant functional limitations in mobility, independent living, or economic self-sufficiency, as appropriate to her age.

33. As to learning and receptive and expressive language, Dr. Madigan's expert opinion that claimant does not have significant functional limitations in these areas, based on her ASD, was persuasive and un rebutted. (See Factual Finding 10.) Claimant has also been diagnosed with ADHD and her mother argues that it is the combination of her ASD and ADHD that causes significant functional limitations in her learning. Her mother also reported that claimant experiences significant anxiety and was being evaluated for that condition. Claimant's IQ and academic performance are average or above. Special education services for speech were terminated as unnecessary in 2024. When claimant is calm and focused, she appears to be able to learn and communicate in an age-appropriate manner, albeit with some social deficits. Pursuant to her mother and teacher's reports, it appears that the lion's share of her functional limitations in learning and language stem from anxiety and inattention. Claimant also experienced physical and emotional abuse. The primary cause of claimant's anxiety, which appears to be a major factor in her functional limitations, is unclear. Overall, the evidence suggests claimant's ADHD and trauma—which are not eligible conditions—as significant factors in her learning and language limitations. Claimant's evidence does not show that her ASD causes significant functional limitations in learning or receptive and expressive language.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. The purpose of the 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. (Welf. & Inst. Code, §§ 4501,

4502 [All further statutory references are to the Welfare and Institutions Code unless stated otherwise.]) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. As claimant is seeking to establish eligibility for government benefits or services, she has the burden of proving by a preponderance of the evidence that she has met the criteria for eligibility. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161 [disability benefits]; *Greatorex v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 [retirement benefits]; Evid. Code, § 500.)

3. A 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.” (§ 4512, subd. (a); see Cal. Code Regs., tit. 17, § 54000, subd. (b).) The term “developmental disability” includes intellectual disability (ID), cerebral palsy, epilepsy, and autism. (*Ibid.*) Under the fifth category, an individual is also eligible for services if he or she has a disabling condition that is closely related to ID or that requires similar treatment as an individual with an ID. (*Ibid.*)

4. A qualifying disability must be “substantial,” meaning that it causes “significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person's age: (A) Receptive and expressive language; (B) Learning; (C) Self-care; (D) Mobility; (E) Self-direction; (F) Capacity for independent living; [and] (G) Economic self-sufficiency.” (§ 4512, subds. (a), (l)(1); Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).)

5. The evidence shows that claimant has ASD, a developmental disability and eligible condition. (Factual Findings 19 and 31.) However, claimant did not show that the resulting disability is substantial, because she did not show significant functional limitations, as appropriate to her age, in three or more of the specified areas of major life activity, due to her ASD. (Factual Findings 32 and 33.) Accordingly, her appeal must be denied. If and when significant new evidence of disability emerges, claimant may ask NBRC for a new assessment.

ORDER

The appeal of claimant from the service agency's denial of regional center eligibility is denied. Claimant is not eligible for regional center services at this time.

DATE:

MICHAEL C. STARKEY

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.