

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

In the Matter of:

CLAIMANT

and

REGIONAL CENTER OF THE EAST BAY, Service Agency.

DDS. No. CS0030447

OAH No. 2025100339

DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, who served as the hearing officer, heard this matter on November 4, 2025, in San Leandro, California.

Appeals Specialist Denise Underwood represented Regional Center of the East Bay (RCEB).

Claimant was represented by his mother and his caregiver. Claimant was not present.

The record closed and the matter was submitted for decision on November 4, 2025.

ISSUE

Is claimant eligible for regional center services?

FACTUAL FINDINGS

1. Claimant is five years old. He lives with his mother and caregiver. His caregiver was his mother's foster parent.
2. Claimant has been diagnosed with left-sided hemiplegic cerebral palsy, developmental delays, and mild intellectual disability.
3. Claimant was found eligible for Early Start services. He was then granted provisional eligibility for services under the Lanterman Developmental Disabilities Services Act (Welf. & Inst. Code, § 4500 et seq.) (the Lanterman Act). Provisional eligibility under the Lanterman Act applies to children three or four years of age who do not otherwise qualify for full eligibility and have significant functional limitations in at least two of the five areas of major life activity areas appropriate to an individual three or four years of age. (Welf. & Inst. Code, § 4512, subd. (a)(2)(A).)
4. Earlier this year, when claimant approached his fifth birthday, RCEB referred claimant to an outside psychologist for an evaluation. The evaluation was performed by Cassandra Fees, Ph.D., in early June 2025.
5. Dr. Fees reviewed records, interviewed claimant's parent and caregiver, and administered standardized assessments. Dr. Fees reported that claimant's intellectual functioning tested in the low average to high average range, with a full-scale IQ score at the 50th percentile. She found that claimant did not meet the

cut-off score for autism spectrum disorder (ASD) on the standardized assessments, and based on these scores and her own observations of claimant determined that he does not meet the diagnostic criteria for ASD. Dr. Fees diagnosed claimant with: unspecified communication disorder and rule out attention deficit/hyperactivity disorder. She noted his history of speech delays, intermittent odd prosody, articulation difficulties, and occasional use of repetitive language.

6. The RCEB eligibility team, including psychologist Amy Allen, Ph.D., and physician Iriani Dang, M.D., reviewed Dr. Fees's evaluation and records provided by the family. The team determined that claimant was not eligible for Lanterman Act services. On an eligibility determination worksheet, they concluded that claimant has significant functional limitations in expressive and receptive language, and that his learning and mobility are adequate. They made no specific determination regarding his self-direction or self-care on the worksheet.

7. A denial letter and a Notice of Action with an effective date of August 30, 2025, were sent to the claimant's mother on August 20, 2025.

8. Claimant appealed the denial of eligibility on September 25, 2025.

9. An informal meeting took place on October 14, 2025, over the telephone, with RCEB manager Sheryll Casuga, Psy.D. At this meeting, claimant's family provided a September 30, 2025, note from claimant's neurologist, Marisa Anne Gardner, M.D. This note states that claimant has:

ongoing difficulties with gross and fine motor coordination, as well as asymmetries in fine motor function on exam. He also has persistent expressive language delays and dependence for multiple [activities of daily living],

consistent with an active diagnosis of moderate intellectual disability.

The RCEB eligibility team reviewed the note, but due to discrepancies between the note and other information in claimant's records, did not change the eligibility determination at that time. Instead, RCEB offered to schedule an evaluation with RCEB staff psychologist Monica Li, Psy.D., with the psychologist and physician from the eligibility team also present.

10. Dr. Casuga testified at the hearing to explain RCEB's eligibility process and the decision that was made in this case. Dr. Casuga has worked for RCEB since 2014 and has been the manager of Intake, Assessment, and Outreach since 2022. She was not on the eligibility team but reviewed the team's determination.

11. Dr. Casuga explained that the eligibility team concluded that while claimant does have a diagnosis of cerebral palsy and significant functional limitations in expressive and receptive language, the records reviewed showed average cognitive ability and only minor impairment in gross and fine motor skills. However, based on Dr. Gardner's notes and information provided by the family, RCEB wants to directly assess claimant's limitations stemming from his cerebral palsy, and wants to reassess him for ASD. Based on reports from the family and other information, Dr. Casuga believes that claimant might in fact have ASD, even though Dr. Fees did not diagnose this condition. RCEB also wants to talk directly with Dr. Gardner and wants to obtain additional records to help in the assessment process.

12. The evaluation of claimant has been scheduled for November 14, 2025, at 10:00 a.m. Dr. Casuga explained that it is important to determine whether claimant has ASD, because if he does, the family will be better able to appropriately treat this

condition. Dr. Casuga is not certain whether claimant will be found eligible for RCEB services after the November 14 evaluation, but believes that it will be beneficial for claimant to attend.

13. Claimant's mother and caregiver described claimant's challenges. As an infant he could not lift his head and had to wear a helmet. He continues to complain of pain and weakness in his left arm and leg. He struggles with self-control. He can become angry and hit his mother. He gets scared in public places such as the park. These behaviors have been getting worse.

14. Claimant is in kindergarten. He is receiving speech education services under the speech or language impairment category. He receives speech therapy and no other services at this time. Claimant received physical therapy and occupational therapy while in preschool, and his mother believes it would be beneficial for him to resume these services.

15. Claimant's caregiver has been a foster parent for 30 years, including for children who were regional center clients. She believes strongly that claimant qualifies for and would benefit from being found eligible for regional center services. She also reported that claimant's functioning and behavior have been declining, despite her and claimant's mother's best efforts to support him.

LEGAL CONCLUSIONS

1. A developmental disability is a "disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual." The term "developmental disability" includes intellectual disability, autism, epilepsy, cerebral palsy, and what is

referred to as the "fifth category." (Welf. & Inst. Code, § 4512, subd. (a).) The fifth category refers to "disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability." (*Ibid.*) Disabling conditions that consist solely of psychiatric disorders, learning disabilities, or physical conditions do not qualify as developmental disabilities under the Lanterman Act. (Cal. Code Regs., tit. 17, § 54000, subd. (c).)

2. Pursuant to Welfare and Institutions Code section 4512, subdivision (1), the term "substantial disability" is defined as "the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person: (1) Self-care. (2) Receptive and expressive language. (3) Learning. (4) Mobility. (5) Self-direction. (6) Capacity for independent living. (7) Economic self-sufficiency." The last two major life activities are generally not taken into consideration when evaluating a young child such as claimant, because children of this age are not typically capable of living independently and are not expected to be economically self-sufficient.

3. It is claimant's burden to prove that he has a developmental disability, as that term is defined in the Lanterman Act.

4. Claimant has been diagnosed with cerebral palsy and intellectual disability, eligible conditions. The evidence presented at the hearing did not establish that claimant has ASD.

5. The parties agree that claimant has significant functional limitations, relative to his peers, in expressive and receptive language.

6. The evidence presented at the November 4, 2025, hearing was insufficient to establish significant functional limitations in any other major life activity.

Claimant does have a history of developmental delays. Dr. Gardner identified deficits in gross and fine motor coordination and intellectual ability in a recent report. These deficits may presently or in the future cause significant functional limitations for claimant in the activities of learning, self-care, self-direction, or mobility. However, based on the evidence presented at the hearing, significant functional limitations in three of the relevant areas of major life activity were not established.

7. On this record, claimant has not established that he is substantially disabled by a developmental disability, within the meaning of the Lanterman Act. Claimant is not eligible for regional center services based on the evidence presented at the November 4, 2025, hearing.

8. This decision does not prevent RCEB from granting eligibility based on additional information obtained after the hearing.

9. This decision does not prevent claimant from reapplying for Lanterman Act services in the future, should the family obtain additional information (such as a new diagnosis, a new determination by the school district regarding his eligibility for special education services, or additional medical records demonstrating substantial disability) or should claimant fail to progress relative to his peers in the relevant areas of major life activity.

ORDER

Claimant's appeal is denied.

DATE:

KAREN REICHMANN

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.