

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

In the Matter of:

CLAIMANT

and

GOLDEN GATE REGIONAL CENTER, Service Agency.

DDS No. CS0031961

OAH No. 2025110838

DECISION

Administrative Law Judge Mario M. Choi, State of California, Office of Administrative Hearings, served as the hearing officer for this matter on February 9, 2026, by videoconference.

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

Director of Regional Center Services Lisa Rosene represented service agency Golden Gate Regional Center.

The record closed and the matter was submitted for decision on February 9, 2026.

ISSUE

Is claimant eligible to receive services from Golden Gate Regional Center (GGRC or service agency) under the Lanterman Developmental Disabilities Services Act (Lanterman Act, Welf. & Inst. Code, § 4500 et seq.¹)?

FACTUAL FINDINGS

Background and History

1. Claimant was born in 2021 and is four years old. He lives with his parents and younger brother.

2. In 2023, claimant was referred by his pediatrician to Kaiser Permanente's Autism Spectrum Disorders Center for an autism spectrum disorder (ASD or autism) evaluation. Claimant was aged 24 months at the time of evaluation. He was seen by Cynthia Vergara, M.F.T., who conducted an in-person evaluation of claimant using the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), the Childhood Autism Rating Scale, 2nd Edition (CARS2-ST) – Standard Edition, and the Adaptive Behavior Assessment System, 3rd Edition (ABAS-3). Vergara did not conduct a standard ADOS-2 administration due to Kaiser Permanente's COVID-19 safety guidelines.

¹ All statutory references are to the Welfare and Institutions Code, unless otherwise stated.

Vergara diagnosed claimant with ASD, finding that claimant's "scores fell in the range of 'Moderate-to-Severe Concern' on the ADOS-2." However, Vergara determined that claimant had a "[l]ow level of autism related symptoms compared with those with an autism diagnosis" on the CARS2-ST and had "average adaptive behaviors overall" on the ABAS-3.

3. Claimant was referred to the Early Start program at GGRC. After meeting with GGRC's Early Start social worker and a doctor, claimant was determined to be qualified for services from the Early Start program on the basis of delayed expressive and receptive communication, but not for adaptive behavior, social-emotional, physical development, or cognitive delays. Early intervention services for claimant included speech therapy, behavioral therapy, and specialized instruction.

4. Participation in the Early Start program ended when claimant turned three years old. In March 2025, claimant applied for ongoing GGRC services. He was given a psychological evaluation on May 13, 2025. On June 2, 2025, the GGRC eligibility team determined that claimant was not eligible for Lanterman Act services because he did not have an eligible developmental disability. The service agency sent a letter informing claimant of its determination on June 11, 2025, and filed a Notice of Action (NOA). Claimant appealed the denial.

5. An informal meeting was held on June 26, 2025. At the informal meeting, the parties agreed that the service agency would observe claimant in his transitional kindergarten class when he started in September 2025. Claimant was observed by GGRC personnel on October 17, 2025.

6. In a letter and NOA dated October 27, 2025, GGRC again determined that claimant was ineligible for Lanterman Act services because claimant “does not have a ‘developmental disability.’”

Claimant appealed the service agency’s determination.

Eligibility Determination

ELISE MAK, PH.D.

7. Elise Mak, Ph.D., credibly testified about her psychological assessment of claimant and the May 13, 2025, report she wrote. She has been a licensed clinical psychologist since 2013 and is president of Envisage Neuropsychology Inc. Dr. Mak was a former staff psychologist for GGRC and is now one of its vendor psychologists. She also serves as a vendor psychologist for Kaiser Permanente.

8. In assessing claimant, Dr. Mak first reviewed claimant’s records, including medical records and his individualized education program (IEP) report. She only “glanced” at Kaiser Permanente’s ASD evaluation report prior to assessing claimant and did not fully review that report until after the assessment because she did not want that evaluation to influence her opinion of claimant. She considered claimant’s behavioral functioning, including claimant’s tantrums, attention deficits, and hyperactivity, and his poor sense of safety awareness.

9. Dr. Mak assessed claimant using the ADOS-2, the Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition (WPPSI-IV), and the ABAS-3. She found that claimant did not display behaviors consistent with ASD. Claimant’s ADOS-2 scores did not meet the cut-off for autism or autism spectrum, and the score for autism spectrum-related symptoms was in the “minimal-to-no evidence” range.

Claimant “performed excellently” on the WPPSI-4. Claimant generally scaled in the below average to average range on the ABAS-3, except in the areas of self-direction and social skills, in which claimant scored in the low range.

10. In reviewing Kaiser Permanente’s report, Dr. Mak determined that Vergara’s administration of the ADOS-2 was not appropriate because she did not administer the testing in the standard manner. She also pointed to the other scores in that report to question the accuracy of the ADOS-2 results.

Claimant’s mother asked questions during the administration of the ABAS-3. Dr. Mak testified that she refused to answer claimant’s mother’s questions because it would taint the outcome.

11. Based on the diagnostic criteria for ASD stated in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR), Dr. Mak determined that claimant did not have ASD. Dr. Mak explained that an individual with ASD demonstrates “persistent deficits in social communication and social interaction across multiple contexts” in all three domains listed in the DSM-5-TR and “restricted, repetitive patterns of behavior, interests, or activities” in at least two of four stated contexts. While claimant showed some autistic-like behavior, Dr. Mak did not find that claimant demonstrated such deficits to diagnose him with autism. Specifically, she determined that claimant did not show persistent deficits in all three contexts listed in the DSM-5-TR concerning social communication and social interaction, or in two of four domains listed in the DSM-5-TR for restricted, repetitive patterns of behavior, interests, or activities.

Dr. Mak also noted that, even if she found claimant to have ASD, she determined that claimant would still be ineligible for Lanterman Act services because

he did not exhibit significant functional limitations in any major life activity. (See § 4512, subd. (l)(1).)

KATIE SCHLOESSER, L.C.S.W.

12. Katie Schloesser, L.C.S.W., credibly testified about the June 26, 2025, informal meeting that she attended, and her October 17, 2025, observation of claimant and her written report concerning that observation. Schloesser is currently GGRC's supervisor of assessment. She has been employed at GGRC for 19 years, serving as a case manager for six years, an assessment social worker for ten years, and now a supervisor for three years.

13. At the informal meeting, claimant's mother complained that Dr. Mak was not thorough in her assessment because the assessment involved only yes and no questions without the ability to elaborate on those answers. She further stated that she had a hard time controlling claimant's behavior and mentioned that he had emotional problems. She stated that claimant has repetitive body movements such as jumping off chairs and will not listen or focus. Claimant's mother also pointed out that claimant is not good at sharing with others, does not use his words much of the time, and is very competitive.

Schloesser found claimant "sweet" and appropriate during the informal meeting.

14. Schloesser testified that, on the day of the observation, she and Kelly Blankenship, L.C.S.W., GGRC's manager of assessment, were accompanied by the school's principal. They were limited to one hour of observation and were not allowed to interact with the students. Schloesser observed claimant both in unstructured and structured learning time and observed his ability to transition between those periods.

During the observation, claimant appeared to be engaged in the activities he was working on, was responsive to his peers and teachers, and transitioned well without resistance to directions. He enjoyed his verbal interactions with his peers and did not display repetitive body movements. Claimant generally behaved appropriately in the academic setting.

15. Schloesser spoke with claimant's teacher about claimant. Claimant's teacher indicated that claimant had difficulty during unstructured time with his peers. An email dated October 16, 2025, detailing an incident involving claimant was forwarded to Schloesser. Claimant, who thought it was funny to distract and interrupt safe play, threw lunch boxes at his peers and then threw a water bottle. He threw another water bottle after his peers told him to stop, and in the process, tripped over it and hurt his finger. He blamed another student for his tripping over the water bottle. Teachers spoke to claimant about making safe choices in the yard and using words.

16. Based on her evaluation of claimant in the office and school settings, Schloesser determined that claimant did not have a developmental disability as defined under the Lanterman Act.

17. Schloesser testified about the difference between Early Start and Lanterman Act services. The purpose of Early Start is to help a child who may have a developmental delay catch up with age-appropriate milestones. The program ends when the child is three years old. In contrast, the Lanterman Act will only provide for treatment and services if the child is determined to have a developmental disability that significantly limits their life activities.

Claimant's Additional Evidence

18. Claimant's mother credibly testified about claimant's temper and her concerns about him.

19. Claimant's mother described claimant as having "significant emotional issues." When claimant is fixated on something, he will continue wanting it and have a tantrum until he gets it. Even after he receives what he seeks, he may continue to have a tantrum. He cannot be controlled when he is in that state, and it is up to him to decide when to stop.

20. Claimant's mother believes that claimant "ticks a lot of boxes" for ASD and believes that Dr. Mak's assessment failed to consider those issues because Dr. Mak refused to answer her questions or allow her to give details about claimant. Claimant's mother also believes that although GGRC did observe claimant at school, GGRC did not see claimant for more than an hour and did not get a complete picture of claimant's behavioral issues. She questions how claimant's school district can accept claimant's ASD diagnosis while GGRC disagreed with and made a different diagnosis.

21. Claimant was found eligible for special education services at his school district under the primary eligibility of autism and a secondary eligibility of speech/language impairment. In observations of claimant by school district officials, they found claimant "sweet, engaging, and fun-loving," but also "mildly moody and/or inflexible, particularly when things do not go his way." Claimant entered into an IEP dated April 17, 2025, with the school district. The IEP has five stated goals, including improved listening comprehension; increased flexibility with his peers; improved speech intelligibility; improved self-advocacy skills; and independent ability to describe an action picture.

22. Claimant is currently receiving behavioral and occupational therapies four days a week through Speech Goals, a speech therapy organization. He will stop receiving services from Speech Goals when he turns five years old.

In an occupational therapy consultation report prepared by a therapist at Speech Goals, in addition to emotional regulation, several concerns were raised regarding claimant's fine motor and adaptive skills, feeding, and grooming. Specifically, claimant is capable of using utensils and drinking from an open or straw cup but shows limited bilateral coordination. He is not able to wear socks and inconsistently initiates hygiene tasks. He has a highly selective diet and limited tolerance for certain textures. He also dislikes shampoo and water on his head.

In a statement of progress and recommendations, Speech Goals wrote that claimant "presents with ongoing challenges across multiple daily routines, social interactions, and emotional regulation domains." Speech Goals recommends ongoing therapeutic intervention targeting emotional and behavioral regulation, expansion of food repertoire, support for consistent follow-through with daily routines and transitions, structured peer interaction opportunities, and self-soothing strategies when emotionally dysregulated.

23. Videos of claimant taken by claimant's mother show claimant's tantrums while at home and in therapy sessions. Claimant's mother testified that claimant will not hurt himself but is aggressive and will hurt others.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Act. (§ 4500 et seq.) 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. (§§ 4501, 4502; *Assn. for Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384.) Because the Act is a remedial statute, it must be interpreted broadly. (*California State Restaurant Assn. v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

2. To establish eligibility for regional center services under the Lanterman Act, claimant has the burden of proving by a preponderance of the evidence that he suffers from a developmental disability, and that he is substantially disabled by that developmental disability. (§§ 4501, 4512, subd. (a); Evid. Code, §§ 115, 500.)

3. A “developmental disability” potentially qualifying a person for services under the Lanterman Act includes intellectual disability, autism, epilepsy, cerebral palsy, and other “disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability.” (§ 4512, subd. (a)(1).)

4. The qualifying disability must be “substantial,” which 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: (A) Self-care. (B) Receptive and expressive language. (C) Learning. (D) Mobility. (E) Self-direction. (F) Capacity for independent living. (G) Economic self-sufficiency.” (§ 4512, subd. (l)(1); Cal. Code Regs., tit. 17, § 54001, subd. (a)(2).) The last two major life activities are generally not taken into consideration when evaluating a young child such as claimant.

5. A child under five years “shall be provisionally eligible” for Lanterman Act services “if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two areas of major life activity.” (§ 4512, subd. (a)(2).) A child “is not required to have one of the developmental disabilities” listed in section 4512, subdivision (a)(1), to be provisionally eligible. (§ 4512, subd. (a)(2)(B).)

6. Based on the evidence presented, claimant has not, by a preponderance, demonstrated that he has autism, a qualifying developmental disability. While claimant has shown that his school district found claimant eligible for special education services based on autism, the school district’s finding does “not apply for purposes of the determination for services” under the Lanterman Act. (Ed. Code, § 56846.2, subd. (b).) And although claimant pointed to the ASD determination by Kaiser Permanente as evidence of his autism, Dr. Mak’s review of Kaiser Permanente’s determination, her explanation of why Vergera’s assessment was open to doubt, and her own testing and conclusion that claimant does not have autism are more persuasive.

7. Although claimant may be provisionally eligible for Lanterman Act services without having a developmental disability, claimant has also not demonstrated by a preponderance of evidence that he has significant functional limitations in at least two areas of major life activity. A preponderance of the evidence shows that claimant has significant functional limitations in the area of self-direction. (Factual Findings 19 and 22.) But the evidence presented has not demonstrated that claimant has a significant functional limitation in another major life activity.

8. Concerns about claimant are reasonable but do not establish that claimant has autism. Given the current evidence, GGRC’s determination that claimant is not eligible for regional center services must be upheld at this time.

ORDER

Claimant's appeal from GGRC's determination that claimant is not eligible for services under the Lanterman Act is denied.

DATE:

MARIO M. CHOI

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 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.