

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

**In the Matter of:**

**CLAIMANT**

**and**

**HARBOR REGIONAL CENTER, Service Agency.**

**DDS No. CS0031921**

**OAH No. 2025110917**

**DECISION**

Irina Tentser, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on February 18, 2026 at Harbor Regional Center, located at 21231 Hawthorne Boulevard, Torrance, California 90503.

Claimant's mother (Mother) represented Claimant, who was not present during the hearing. Claimant's and Mother's names are omitted to protect their privacy rights.

Latrina Fannin, Manager of Rights and Quality Assurance, represented Harbor Regional Center (Service Agency or HRC).

Testimonial and documentary evidence was received. Claimant provided paper copies of Exhibits A through F at the hearing, which were subsequently scanned and

uploaded to Case Center by the ALJ without the parties' objection. At the ALJ's request, the record was left open until February 25, 2026 for Service Agency to submit document(s) regarding whether Service Agency consumers who are found to be provisionally eligible are eligible for the Medi-Cal Developmental Disability Waiver. On February 20, 2026, Service Agency filed two documents in Case Center, a one page statement by Latrina Fannin regarding Claimant's eligibility for referral to Medi-Cal for institutional deeming services and a three-page document from the Department of Developmental Services (DDS) titled "FAQS ABOUT PROVISIONAL ELIGIBILITY FOR LANTERMAN DEVELOPMENTAL DISABILITIES SERVICES ACT," which were admitted into evidence by the ALJ, respectively, as Exhibits 16 and 17.

The record closed and the matter was submitted for decision on February 25, 2026.

## **ISSUE**

Is Claimant eligible for regional center services pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act) under the category of autism spectrum disorder (ASD)?

## **EVIDENCE RELIED UPON**

Service Agency's exhibits 1 through 17; Claimant's exhibits A through F; the testimony of LaWanna Blair, Service Agency's Director of Early Childhood Services; the testimony of Sylvia Olvera, MD, physician, neurologist, and Service Agency eligibility determination consultant; testimony of Mother; testimony of Rebecca Merida, Board Certified Behavior Analyst (BCBA).

## **FACTUAL FINDINGS**

### **Parties, Jurisdiction and Background**

1. Claimant is a three year, three-month-old girl who lives with her parents and three siblings (ages 11 and seven years, and seven months). Her maternal uncle often stays with the family when he is in town. The family history includes autism and Attention-Deficit-Hyperactivity Disorder (ADHD) for Claimant's siblings.

2. Service Agency is a regional center designated by DDS to provide funding for services and supports to persons with developmental disabilities under the Lanterman Act, among other entitlement programs. (Welf. & Inst. Code, § 4500 et seq.)

3. Claimant was previously a participant in Service Agency's Early Start Program. As part of the transition out of the Early Start Program, Service Agency completed the eligibility process of Claimant and evaluated her for Provisional or Lanterman Act eligibility over age three.

4. On October 24, 2025, Service Agency sent Claimant a Notice of Action (NOA) stating Claimant was ineligible for regional center services under both Provisional and Lanterman Act eligibility because it was determined that all areas of Claimant's areas of development were within average range.

5. On November 20, 2025, Claimant filed a timely appeal.

6. In December 2025, Claimant's Mother met with Service Agency for an informal meeting. Based on additional information provided by Mother at the meeting, Service Agency determined Claimant provisionally eligible for regional center services

on December 15, 2025. However, Service Agency's initial determination of ineligibility under the Lanterman Act remained unchanged.

7. By letter dated December 17, 2025, Service Agency notified Claimant that Claimant was determined eligible for HRC services under the "Provisional Eligibility" category (Provisional Eligibility), but was not eligible for services under the Lanterman Act. Service Agency further notified Claimant that she would be retested for Lanterman eligibility prior to Claimant's fifth birthday.

8. Provisional Eligibility is a temporary eligibility category for children up to age five who do not meet the traditional eligibility criteria (i.e., ASD, Intellectual Disability, Cerebral Palsy, and Epilepsy) but who are substantially impaired in at least two major areas of life activity, as determined by the regional center. Children under this category must be re-assessed 90 days prior to their fifth birthday to determine ongoing eligibility for regional center services under the Lanterman Act.

9. Claimant continues to appeal and seeks a finding of eligibility under the Lanterman Act under the category of ASD. The matter therefore proceeded to fair hearing.

10. Claimant is eligible for special education services under the primary category of autism and the secondary category of speech and language impairment (SLI). She attends early intervention classroom at Momentum (Leaps and Bounds), three hours a day, three times a week and receives services from the Torrance Unified School District (TUSD). Claimant submitted to Service Agency for its review Claimant's initial Individualized Education Plan (IEP), dated October 20, 2025. In addition to speech therapy services provided by TUSD with Hues Speech Therapy, in-home one hour per week, Claimant receives Applied Behavioral Analysis (ABA) therapy at home,

for 20 hours per week through First Steps for Kids, and occupational therapy (OT) at Torrance Memorial, one session bi-weekly.

### **Service Agency's Denial of Eligibility**

11. Claimant has been diagnosed with the developmental disability ASD (Level 2) with accompanying language impairment. Service Agency does not dispute Claimant's qualifying developmental disability diagnosis of ASD, but asserts she is not substantially disabled by her ASD.

#### **ELIGIBILITY TEAM REVIEW – NOVEMBER 1, 2025**

12. On November 1, 2025, Service Agency's eligibility team, consisting of psychologist Dr. Owen Fudim, physician Dr. Ahoo Sahba, service coordinator Amy Andrade, manager Savannah Pio, speech-language pathologist Melissa Greener, determined Claimant ineligible for eligibility under the Lanterman Act. The team also did not find Claimant Provisionally Eligible.

13. It is unclear from the evidence at fair hearing what information the eligibility team relied upon in making its initial November 1, 2025 determination of ineligibility. None of the members of the team testified at the fair hearing and Service Agency's hearing witnesses did not know what specific information the team relied upon in making its determination. Mother asserted at fair hearing the November 1, 2025 eligibility team did not review Claimant's available information in making its initial determination.

#### **ELIGIBILITY TEAM REVIEW – DECEMBER 15, 2025**

14. On December 15, 2025, Service Agency's eligibility team, consisting of psychologist Dr. Driver, physician Dr. Sylvia Olvera, service coordinator Amy Andrade,

manager Savannah Pio, and case services manager Maria Rivas, determined Claimant Provisionally Eligible for Lanterman Services, requiring a case review or a psychological reassessment at least 90 days prior to Claimant's fifth birthday. The team referenced and accepted Claimant's diagnosis of ASD (Level 2) with accompanying language impairment based on the April 14, 2025 Pediatric Minds Confidential Psychological Evaluation Report and the findings of the firm's assessment team. That team consisted of licensed clinical psychologist Negar Afshar, PsyD, and clinical supervisor and medical director/attending physician Pantea Sharifi-Hannauer, MD.

15. Five relevant areas of substantial functional limitations were considered by the regional center team, including self-care, receptive and expressive language, learning, mobility, and self-direction. The areas of capacity for independent living and economic self-sufficiency were not considered because they are not applicable to Claimant's age group and are considered for individuals who are over 13 years old for capacity for independent living and over 16 years old for economic self-sufficiency.

16. Claimant was found to be substantially disabled in two of the relevant areas: receptive and expressive language and self-direction. For the category of receptive and expressive language, the team based its determination of substantial functional limitations on the comprehensive language assessment done by TUSD which noted below average expressive language and concerns with language fluency. For the category of self-direction, the team based its determination of substantial functional limitations on Claimant's initial IEP wherein Claimant was noted to demonstrate intermittent participation, rarely clapping and singing in a whole group, relying on prompts to socially approach peers to exchange toys or high-fives, and did not yet demonstrate parallel play skills consistently.

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17. Based on its review of all available information, the team did not determine that Claimant demonstrated substantial functional limitations in the areas of self-care, learning, and mobility. Accordingly, Claimant was found Provisionally Eligible for Lanterman Services.

### **PROVISIONAL ELIGIBILITY**

18. LaWanna Blair, Director of Early Childhood Services, testified at the fair hearing. Ms. Blair testified about Service Agency's case management activities. However, she did not have first-hand information related to Claimant's case because she was not a member of either of Service Agency's November or December 2025 eligibility teams. Her testimony was primarily instructive on explaining Lanterman Act versus Provisional Eligibility.

19. As Ms. Blair explained, Provisional Eligibility is the result of a July 16, 2021, amendment to Welfare and Institutions Code section 4512 which expanded the eligibility for Lanterman Act service by allowing a child who is three or four years of age to be provisionally eligible for regional center services under specified conditions.

20. Specifically, if a child who is three or four years of age is not otherwise eligible for regional center services as a result of a developmental disability as specified in Welfare and Institutions Code section 4512, subdivision (a)(1), the child shall be Provisionally Eligible for regional center services if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two of the following areas of major life activity, as determined by a regional center and as appropriate to the age of the child: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, and (5) self-direction.

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21. A child exiting Early Start, like Claimant, may be eligible for Lanterman Act services under the Provisional Eligibility criteria. The only Lanterman Act regional center service/support for which a Provisionally Eligible child is ineligible is the self-determination program (SDP). A child, like Claimant, under a provisional diagnosis can be eligible for Medi-Cal institutional deeming services. However, Claimant must meet specific Medi-Cal criteria to be granted institutional deeming. (Exhibits 16 and 17.)

22. For Claimant, who is Provisionally Eligible, the next step is the development of an Individual Program Plan (IPP) by the Service Agency.

### **LANTERMAN ACT INELIGIBILITY**

23. Service Agency's consulting physician and neurologist Sylvia Olvera, MD, was a member of Service Agency's December 15, 2025 eligibility team which found Claimant Provisionally Eligible but did not find Claimant eligible under the Lanterman Act. Dr. Olvera credibly testified at hearing regarding the basis for the Service Agency's denial of Claimant's eligibility for services under the Lanterman Act.

24. As previously noted above, Service Agency did not dispute Claimant's ASD diagnosis, and determined Claimant's ASD was substantially disabling in two areas, self-direction and receptive and expressive language, resulting in the Provisional Eligibility determination by Service Agency.

25. Dr. Olvera explained that after reviewing all of the available information for Claimant, including, but not limited to, Pediatric Minds's April 14, 2025 Confidential Psychological Evaluation (Exhibit 6); Columbus Organization's April 16, 2024 Speech and Language Developmental Evaluation (Exhibit 8); TUCD's October 10, 2025 Preschool Transdisciplinary Report (Exhibit 13); TUCD's October 20, 2025 initial IEP (Exhibit 14); and FirstSteps's Concurrent Review & Treatment Plan (Exhibit 15), the

eligibility team determined Claimant's ASD was not substantially disabling in the additional relevant areas of mobility, self-care, and learning, resulting in the determination of ineligibility under the Lanterman Act by Service Agency. The basis for the Service Agency's finding that there were no additional areas in which Claimant was substantially disabled was that many of the behaviors Claimant exhibited, which Mother argued were evidence of substantial disability, such as frequent falls, overstuffing of food, and elopement, were currently consistent with age-appropriate development and did not support a finding of substantial disability in the relevant areas of self-care, mobility, and/or learning.

26. Prior to the fair hearing and at the fair hearing, Dr. Olvera reviewed the information submitted by Claimant which Mother argued established Claimant's Lanterman Act eligibility. The documents reviewed and Mother-reported descriptions included information regarding Claimant's past and current development, such as Columbus Organization's November 2024 Occupational Therapy Consultation Summary (Exhibit B), FirstSteps's February 2026 Supplemental ABA Goals (Exhibit C), OT Outpatient Pediatric Development Exam on February 13, 2026 by OT Rianna W. Machida (Exhibit D), and photographs of Claimant with Mother's report of bruises due to falls and item inserted by Claimant into her nose requiring surgical removal (Exhibit E.)

27. Dr. Olvera opined that after considering the additional documents and information, Service Agency's original assessment that Claimant is not eligible for Lanterman Act services remained unchanged. Dr. Olvera explained that the November 2024 Occupational Therapy Consultation Summary was an old report conducted when Claimant was two years old, and therefore not indicative of Claimant's current development. Because the November 2024 report was more than six months old it was

not currently relevant to Service Agency's determination of Lanterman Act eligibility and would not have been considered relevant by the eligibility team in November 2025.

28. Dr. Olvera further explained why none of the documents provided by Claimant as of the date of fair hearing supported findings of substantial disability in the areas of mobility, self-care, and/or learning for Claimant. As previously noted, due to Claimant's young age, Service Agency did not evaluate the areas of capacity for independent living or economic self-sufficiency.

### **Mobility**

29. An individual is substantially disabled in the area of mobility if they have significant limitations with independent ambulation, including needing crutches, a walker, or a wheelchair, or if they have gait abnormalities and/or coordination problems that significantly interfere with mobility. (Testimony of Dr. Olvera.) For the area of mobility, Dr. Olvera explained that Claimant's reported frequent falls were consistent with neurotypical children who are three years old who tend to get injured at that age and did not support the finding of substantial disability attributable to Claimant's ASD. Further, Dr. Olvera explained that Claimant provided no medical records to corroborate Mother's claim that Claimant's frequent falls were attributable to mobility issues.

### **Learning**

30. An individual is substantially disabled in the area of learning if they are substantially impaired in the ability to acquire and apply knowledge or skills to new situations even with special intervention. (Testimony of Dr. Olvera.)

31. Service Agency determined Claimant was not substantially disabled in the area of learning based on the psychological evaluation report of Drs. Afshar and Sharifi-Hannauer at Pediatric Minds, whose diagnosis of Claimant was ASD without accompanying cognitive impairment. In addition, Service Agency noted that Claimant's intelligence functioning was in the average range based on review of Claimant's IEP.

### **Self-Care**

32. An individual is substantially disabled in the area of self-care if they have significant limitations in the ability to acquire and perform basic self-care skills, such as personal hygiene, grooming, and feeding.

33. Service Agency determined Claimant was not substantially disabled in the area of self-care. Dr. Olvera explained that Claimant's behaviors, such as choking on food, eloping, requiring assistance with hygiene, and inserting objects into cavities, were consistent with her age and developmental stage. As an example Dr. Olvera explained that Claimant's behavior of putting things in Claimant's mouth was age appropriate considering Claimant was in the developmental "oral phase" stage and did not evidence a substantial disability in self-care. Similarly, Claimant's elopement behaviors, insertion of objects into cavities, and close supervision for safe ambulation requirement are consistent with the behaviors exhibited by other children Claimant's age and cannot be attributed solely to developmental delays associated with self-care.

### **Claimant's Evidence at Hearing**

#### **TESTIMONY OF REBECCA MERIDA**

34. Rebecca Merida is a Board Certified Behavior Analyst (BCBA) who has provided ABA services through FirstSteps to Claimant since May 2025. Ms. Merida

credibly testified at hearing and prepared a Supplemental ABA Goals February 2026 report that Claimant submitted into evidence in support of a finding of Lanterman Act eligibility. (Exhibit C.)

35. Ms. Merida described the main concerns addressed by the ABA provided to Claimant included functional communication, receptive and expressive language, social play skills, following instructions, parallel play, hand washing, tooth brushing, overstuffing, chewing and swallowing, and using a straw. Ms. Merida recommends Claimant's current 20 hours per week of ABA service be increased to 40 hours per week based on Claimant's ABA goals.

36. During her testimony, Ms. Merida described the Supplemental ABA Goals report she prepared in February 2026 based on her assessment of Claimant. (Exhibit C.) According to Ms. Merida, Claimant's adaptive skills, as measured by the Daily Living Skills domain score of 75, which assesses Claimant's performance of the practical, everyday tasks of living that are appropriate for her age, corresponds to a percentile rank of five, which is equivalent to a one year and four month old child. (*Id.*, p. B12.)

37. One of the safety skill goals for Claimant includes elopement (i.e., Claimant leaving the area of the adult, more than three feet, without stating where she is going or getting permission from the adult to leave the area). According to Ms. Merida, over seven days of data collection, in the natural environment, Claimant was observed to elope at an average of three instances per hour, with a frequency of 10 occurrences per opportunity. (Exhibit C.) Ms. Merida opined that Claimant's elopement poses a significant safety risk to her overall quality of life and required direct intervention to ensure socially significant replacement behaviors are taught.

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38. Another ABA goal included the safety skills goal of following directives based on Ms. Merida's observation that, in the natural environment, when Claimant was given a safety directive (e.g., "stop," "wait for me," etc.), Claimant followed the safety directive with 14 percent accuracy. (Exhibit C.) For the safety skill of checking in with an adult, Claimant was observed to check in 50 percent of the time in the natural environment by Ms. Merida.

39. For the ABA goals of feeding skills related to Claimant stuffing her mouth, prompts from an adult to chew food, and choking, Claimant was observed by stuffing her mouth an average of 5.5 instances per opportunity to eat and choking on average once per meal. Ms. Merida concluded that Claimant engaged in a high rate of stuffing her mouth with food and choking, suggesting either that Claimant is unaware of how much food is in her mouth or unaware that stuffing her mouth is dangerous behavior. Ms. Merida concluded that without constant supervision or instructions to "chew," Claimant would either continue to stuff her food in her mouth or choke on her food. Ms. Merida opined that a child of Claimant's age should be able to eat without constant reminders from an adult to chew or swallow or not over stuff to the point of choking, as observed in Claimant. (Exhibit C.) However, Ms. Merida conceded that the area of feeding is outside the scope of her practice of applied behavior analysis. She recommended an evaluation for feeding by an occupational therapist as appropriate to determine further need for intervention regarding Claimant's ability to eat independently. (During Claimant's February 2026 OT exam she "did not cough or demonstrate any choking behaviors" and demonstrated "functional age-appropriate mealtime attention.") (Exhibit D, p. B23.)

40. For the ABA goals of grooming skills such as hand washing and toileting, Ms. Merida observed Claimant following the steps adequately to wash her hands in 45

percent of opportunities and adequately use the restroom in 77 percent of opportunities. Based on the results, Ms. Merida concluded Claimant had a low rate of accuracy for her age with hand washing as compared to the expected 60 to 80 percent for children Claimant's age, which posed a risk to her overall well-being. Claimant's toileting was determined to be age appropriate. (Exhibit C.)

### **TESTIMONY OF MOTHER**

41. Mother testified credibly at hearing. She expressed concern that Service Agency initially denied eligibility entirely due to "clerical errors" in failing to consider all available information regarding Claimant's development. For example, Mother claimed Service Agency did not review the November 2024 feeding assessment when initially determining Claimant's eligibility, which was already a part of Claimant's Service Agency file. Based on her past experience with Service Center's initial eligibility denial in November 2025, Mother requested that Claimant's complete record be considered in determining Lanterman Act eligibility.

42. Mother argued she submitted ABA documentation identifying Claimant's ongoing safety risks, including elopement, impaired self-regulation, and repeated overstuffing during meals, which supported Claimant's substantial disability in the areas of self-care and mobility. (Exhibit C.) Mother asserted that the recent February OT feeding observation which, among other things, found Claimant "demonstrate[d] functional age appropriate mealtime attention"; did not demonstrate any coughing or choking behaviors; and "was able to effectively and safely chew the large bolus with no difficulties observed," did not reflect Claimant's "typical functioning," attributing Claimant's OT observed behaviors to "a controlled setting with three adults present." (Exhibits A and D.)

43. Mother stressed that Claimant's safety risks are "persistent and significant compared to her peers," citing Claimant's serious facial fall and the surgery Claimant required after inserting an object into her nose as examples of Claimant's substantial disabilities in the areas of self-care, self-direction, and mobility. (Exhibits A and E.) She argued that these are not isolated events, representing a pattern requiring Claimant's constant supervision, consistent with mobility issues pursuant to Welfare and Institutions Code section 4512, subdivision (l), which, Mother argued included "the ability to move safely and independently." (Exhibit A.)

44. Mother argued that the evidence she presented showed Claimant had consistent limitations which affected Claimant's safety, self-care, and independence which were not "typical" developmental delays, but substantial safety concerns that affected Claimant's functioning. (Exhibit A.) Mother explained that she had firsthand experience recognizing patterns of early developmental disability because she has "other children who receive services and supports from HRC" and stressed that her concern was "grounded in experience and documentation." (Exhibit A.)

45. Mother expressed concern that Claimant would be penalized for receiving proactive services such as ABA or for making progress with support. She argued that Claimant's progress with intervention did not mean Claimant's "disability is no longer substantial." (Exhibit A.) In deciding this matter, Mother asked that the hearing officer consider the "totality of the evidence and the real-world impact on [Claimant's] safety and independence." (*Ibid.*) She explained that Lanterman Act eligibility, unlike Provisional Eligibility, would ensure that Claimant "has continued access to the supports necessary to protect [Claimant's] health and allow [Claimant] to build the skills [Claimant] needs for long-term independence." (*Ibid.*)

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## **Analysis**

46. All of the evidence presented by the parties has been considered. Claimant's ASD diagnosis is not in dispute. In addition, there is no dispute that Claimant is substantially disabled in the areas of (1) self-direction and (2) receptive and expressive language. Claimant is Provisionally Eligible for Lanterman Act services pursuant to Welfare and Institutions Code section 4512, subdivision (a)(2), and will be reassessed by Service Agency within 90 days of her fifth birthday to determine ongoing eligibility for regional center services. The areas of dispute are whether Claimant is substantially disabled in at least one of the following relevant areas: learning, self-care, and mobility, and is therefore eligible for services under the Lanterman Act.

47. Mother and Ms. Merida testified credibly about the concerns regarding Claimant's adaptive skills and mobility, which pose a safety risk to Claimant. However, Claimant's evidence did not outweigh Service Agency's evidence, including Dr. Olvera's credible testimony that Claimant, after considering all the evidence presented to date, was not substantially disabled in the areas of mobility, learning, and/or self-care. Claimant therefore did not establish that she is substantially disabled by ASD by a preponderance of the evidence and is eligible for services under the Lanterman Act. Ultimately, as Dr. Olvera explained, at this time, based on the type of age-appropriate behaviors observed in neurotypical children Claimant's age, the concerns regarding Claimant's functioning were not established as being attributable to Claimant's developmental delays.

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## LEGAL CONCLUSIONS

1. The Lanterman Act, Welfare and Institutions Code section 4500 et seq., governs this case. (All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.)

2. Claimant bears the burden to prove by a preponderance of the evidence she is eligible for regional center services. (Evid. Code, §§ 115; 500.) "Preponderance of the evidence" means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

3. Under the Lanterman Act, 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. A developmental disability includes intellectual disability, cerebral palsy, epilepsy, autism, and other conditions similar to intellectual disability or requiring treatment similar to that required by individuals with intellectual disability, i.e., the fifth category. (§ 4512, subd. (a).)

4. "Substantial disability" means 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, and (7) economic self-sufficiency. (§ 4512, subd. (1)(1).)

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5. Claimant did not prove by a preponderance of the evidence she is currently eligible for regional center services pursuant to section 4512, subd. (a)(1). Claimant did not prove she is substantially disabled by ASD, as set forth in factual findings 46 and 47. Based on Service Agency's determination of Claimant's provisional eligibility for regional center services pursuant to section 4512, subd. (a)(2), however, Claimant shall be re-assessed by Service Agency 90 days prior to her fifth birthday to determine ongoing eligibility for regional center services.

### **ORDER**

Claimant's appeal is denied. Claimant is Provisionally Eligible for regional center services pursuant to section 4512, subd. (a)(2), but is not eligible to receive regional center services at this time pursuant to section 4512, subd. (a)(1).

DATE:

IRINA TENTSER  
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.