

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

In the Matter of:

CLAIMANT

and

NORTH BAY REGIONAL CENTER, Service Agency.

DDS No. CS0031880

OAH No. 2025111089

DECISION

Administrative Law Judge Mario M. Choi, State of California, Office of Administrative Hearings, served as the hearing officer for this matter on February 25, 2026, in Santa Rosa, California.

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

Attorney Jake Stebner represented service agency North Bay Regional Center (NBRC or service agency).

The record was held open for service agency to submit certain additional documents at claimant's request. The documents were timely received and marked and admitted as Exhibits 10, 11, and 12.

The record closed and the matter was submitted for decision on February 26, 2026.

ISSUES¹

1. Under the Lanterman Developmental Disabilities Services Act (Lanterman Act, Welf. & Inst. Code, § 4500 et seq.),² does a determination of significant functional limitation in the major life activity of “receptive and expressive language” under section 4512, subdivision (l)(1)(B), require finding significant functional limitation as to both expressive language and receptive language, or does a determination require finding significant functional limitation as to either expressive language or receptive language?

2. Based on the determination of Issue No. 1, is claimant fully eligible, and not just provisionally eligible, for Lanterman Act services from NRBC?

¹ Pursuant to a stipulation entered into by the parties and as further discussed at hearing.

² All subsequent statutory references are to the Welfare and Institutions Code, unless otherwise stated.

FACTUAL FINDINGS

Background and History

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

2. Claimant was diagnosed with autism spectrum disorder (ASD or autism) and expressive language delay in 2025 by a developmental behavioral pediatrician in Santa Rosa.

3. After a review of documents submitted by claimant's parents and an intake social assessment of claimant, NBRC determined that claimant was provisionally eligible for Lanterman Act services due to significant functional limitations in the major life activities of self-care and self-direction. NBRC determined, however, that while claimant has significant functional limitation in expressive language, he did not have a significant functional limitation in receptive language. Finding that claimant did not demonstrate significant functional limitation in a third area of major life activity, NBRC sent a notice of action dated November 7, 2025, to claimant denying full eligibility for Lanterman Act services.

4. Claimant timely appealed the determination.

NBRC's Evidence and Arguments

5. Guadalupe Lopez, NBRC's intake department manager, testified about the intake and assessment process at NBRC, what she has encountered in those individuals who have ASD and are found to be eligible for services, and NBRC's understanding of what constitutes significant functional limitation in the receptive and

expressive language area of major life activity. She has been with NBRC for ten years and involved with over 5,000 eligibility determinations, of which over 1,800 involved ASD.

Lopez testified that most individuals with ASD who have received services from NBRC have significant functional limitations in self-care and self-direction. She has not encountered an individual with ASD who has had mobility issues. She has come across adolescents as young as 11 years old with ASD who have been found to have significant functional limitations in the areas of independent living and economic self-sufficiency. And Lopez noted that individuals with ASD who have significant functional limitation in learning will generally show that limitation as they age due to the higher expectations made of them.

Lopez has encountered individuals, such as claimant, who have ASD and a significant functional limitation in one language area but not the other. Based on the Association of Regional Center Agencies' document entitled Recommendations for Assessing "Substantial Disability" for the California Regional Centers, revised December 2023 (Recommendations), Lopez testified that NBRC would find that these individuals do not have significant functional limitation in the major life activity of receptive and expressive language. Concerning a nonverbal individual with ASD (see Factual Finding 12), Lopez testified that she has found before that such an individual would have limitations in both expressive language and receptive language.

6. The Recommendations provide that, in determining whether an individual has significant function limitation in receptive and expressive language, "[t]he applicant has noticeable limitations in both the comprehension and expression of verbal and/or nonverbal communication resulting in functional impairments." Importantly, "There must be impairment in receptive and expressive language to

consider Receptive and Expressive Language to be an area of substantial disability.” (Original underscoring.)

7. Service agency also asserts that the plain meaning and wording of the statute, and California Code of Regulations, title 17, section 54001, subdivision (a)(2)(A), require claimant to demonstrate significant functional limitations in both expressive language and receptive language to qualify as substantially disabled in the receptive and expressive language area of major life activity under the Lanterman Act.

Claimant’s Evidence and Arguments

8. Claimant was assessed for special education services by claimant’s school district in February 2025. Claimant was three years old at the time of assessment. In testing completed by the school district, claimant was found to have age-appropriate verbal skills and nonverbal ability, below average overall adaptive behavior skills, very elevated struggles with social and communication skills, very elevated socialization and behavioral challenges, and difficulties with sensory modulation skills. In testing for language skills, claimant was found to have receptive language comprehension “through the 3:0-3:5 year level” but expressive language in “the 2:0-2:5 year level.”

9. Claimant entered into an individualized education program (IEP) with his school district in March 2025. Claimant’s primary disability is listed as autism and secondary disability as speech or language impairment. Claimant’s IEP goals include increased motor planning skills; transitioning between activities with minimal resistance; remaining in a group for at least five minutes during structured activities; use of multi-modal communication; reciting 13 letters of the alphabet; and “follow[ing] 1-2 step routine based spoken directions.”

10. Claimant attends multiple therapies, including speech, occupational, applied behavior analysis, and horse therapies. He also receives social skills training. In two speech therapy evaluation reports, one dated June 2024, and the other dated May 2025, claimant's therapist determined that claimant has age-appropriate receptive language skills but limitations in expressive language. In a January 2025 occupational therapy evaluation, claimant's therapist determined that claimant demonstrated delays in fine motor grasping and visual motor skills, and differences in sensory processing and regulation.

11. Claimant's mother testified that claimant is funny, vivacious, curious, and energetic. He has a strong will and conviction, and speaks and is conversational. Claimant, however, is also aggressive and violent when he is dysregulated, which happens frequently and with the simplest things. Claimant also has a restrictive eating disorder and social communication challenges. Claimant's mother stated that claimant "passes as normal until he punches you in the nose."

12. Claimant argues that NBRC's interpretation of receptive and expressive language is too narrow because the Lanterman Act is a remedial statute and thus must be liberally construed to effectuate its purpose. Claimant reads this language as a category and interprets the term "and" disjunctively to mean "or." Claimant also argues that service agency's interpretation would lead to absurd results, citing the example of a nonverbal individual who is impaired in expressive language and not in receptive language; that individual would not be found to have a significant functional limitation in that major life activity due to service agency's interpretation. Finally, referring to the American Speech-Language-Hearing Association's classification of receptive and expressive language as a unified domain of "spoken language disorders," claimant argues that receptive and expressive language functions do not exist in silos. Claimant

contends that requiring both receptive language and expressive language to be impaired would be discriminatory against those who have ASD but only show limitation in one language area and not the other.

13. Claimant also points to the Recommendations, but as revised in August 2013. In that version, the Recommendations state that, “for selecting Receptive and Expressive Language as an area of substantial disability: The individual has significant limitations in both the comprehension and expression of verbal and/or nonverbal communication resulting in function impairments.” That version, however, also provides that, “There must be impairment in receptive and expressive language to consider Receptive and Expressive Language to be an area of substantial disability.” (Original underscoring.)

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 Lanterman 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. The Lanterman Act deems children under the age of five “provisionally eligible for regional center services” if available evidence suggests but does not establish conclusively that they meet all requirements for full eligibility. (§ 4512, subd. (a)(2).)

Statutory Interpretation

6. Because this is an issue of statutory interpretation of the phrase “receptive and expressive language,” the “fundamental task here is to determine the Legislature’s intent so as to effectuate the law’s purpose. [Citation omitted.]” (*In re C.H.* (2011) 53 Cal.4th 94, 100.) The words of the statute are given their “ordinary and usual

meaning” and are viewed in their statutory context. (*Ibid.*) The various parts of the enactment are harmonized and considered in the context of the statutory framework as a whole. (*Ibid.*) “‘If the statute’s text evinces an unmistakable plain meaning, we need go no further.’ [Citation omitted.]” (*Ibid.*) Only when the statute’s language is ambiguous or susceptible to more than one reasonable interpretation may extrinsic aids be used to assist in interpretation. (*Id.* at pp. 100–101.)

7. “The ordinary and usual usage of ‘and’ is as a conjunctive, meaning, “‘an additional thing,’” ‘also’ or ‘plus.’ [Citation omitted.]” (*In re C.H., supra*, 53 Cal.4th at p. 101–102.) Although courts “will sometimes substitute ‘or’ for ‘and,’ and vice versa, when necessary to accomplish the evidence intent of the statute, [] doing so is an exceptional rule of construction. [Citation omitted.]” (*Id.* at pp. 102–103.) Courts must “‘strive to give meaning to every word in a statute and to avoid constructions that render words, phrases, or clauses superfluous.’ [Citation omitted.]” (*Id.* at p. 103.)

8. Giving the phrase “receptive and expressive language” an ordinary and usual meaning and considering the phrase in its statutory context, an individual seeking Lanterman Act services must establish functional limitations in both receptive language and expressive language. The Legislature knew the difference between the terms “and” and “or” when it specifically required individuals to exhibit significant functional limitations in “three or more” of the seven areas of major life activities, one of which is “receptive and expressive language,” to demonstrate substantial disability. (§ 4512, subd. (l)(1).)

9. The Department of Developmental Services (DDS) also interprets the phrase “receptive and expressive language” to require significant functional limitations in both receptive language and expressive language. California Code of Regulations, title 17, section 54001, provides that a “substantial disability” means a “condition

which results in major impairment of cognitive and/or social functioning, . . . and” the “existence of significant function limitations . . . in three or more” areas of major life activity. DDS knew when to use the terms “and,” “or,” and “and/or,” as it did here. (See *Pacific Gas & Electric Co. v. Public Utilities Com.* (2015) 237 Cal.App.4th 812, 853 [An agency “knows how to frame regulations expressing [] intent.”].) Interpreting the term “and” as anything other than what it means would make the other words in the regulation superfluous.

Application

10. Claimant has a developmental disability, ASD, that potentially qualifies him for Lanterman Act services. (Factual Finding 2.) Claimant has shown that he has significant functional limitations in the major life activities of self-care and self-direction, and he is provisionally eligible for Lanterman Act services. (Factual Finding 3.) However, claimant has not demonstrated that he has significant functional limitation in the area of receptive and expressive language because he has not shown that he is limited in receptive language. (*Ibid.*) Because claimant has not demonstrated significant function limitation in a third major life activity at this time, he is not fully eligible for Lanterman Act services.

11. Claimant’s parents’ concerns about claimant are reasonable. However, these matters do not establish as of the hearing date that claimant has a substantial disability in a third area of major life activity at this time. Claimant will be reassessed at least 90 days before turning five years of age. (§ 4512, subd. (a)(4).)

ORDER

Claimant's appeal from North Bay Regional Center's determination that claimant is not fully eligible for services under the Lanterman Act is denied. Claimant remains provisionally eligible for Lanterman Act services.

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.