

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

In the Matter of:

CLAIMANT

and

SAN GABRIEL/POMONA REGIONAL CENTER,

Service Agency

DDS No. CS0035310

OAH No. 2026040124

DECISION

Sharon Lahey, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference and telephone on May 5, 2026.

Rosa Fernandez, Appeals and Resolutions Specialist, represented San Gabriel/Pomona Regional Center (SGPRC).

Claimant's mother represented claimant.

Oral and documentary evidence was received, the record was closed, and the matter submitted for decision on May 5, 2026.

ISSUE

Is claimant eligible for regional center services under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) as a result of autism spectrum disorder (ASD or autism) that constitutes a substantial disability?

FACTUAL FINDINGS

Jurisdiction and Background

1. Claimant is a five-year-old boy seeking regional center services based on ASD.
2. On December 20, 2024, SGPRC determined claimant met the provisional eligibility criteria for regional center services until he reached age five, at which time, he would be evaluated to determine his eligibility for regional center services under the Lanterman Act.
3. On October 14, 2025, an eligibility team comprised of a psychologist, service coordinator, and manager of admissions and assessments determined that claimant did not qualify for regional center services under the Lanterman Act because there was insufficient evidence showing he had a qualifying developmental disability.
4. In a letter and Notice of Action, both dated March 24, 2026, SGPRC informed claimant of its determination that claimant was not eligible for regional

center services because he did not have a qualifying developmental disability under the Lanterman Act.

5. On March 30, 2026, claimant filed an appeal challenging SGPRC's eligibility determination and requesting a hearing.

SGPRC'S Evidence

PSYCHOLOGICAL EVALUATIONS

Yadira Vazquez, Psy.D.

6. Clinical Psychologist Yadira Vazquez, Psy.D., performed a psychological evaluation of claimant on March 6, 2024, when claimant was three years and four months old. Her psychological report is summarized as follows: SGPRC referred claimant to Dr. Vazquez to determine his eligibility for regional center services and to rule out ASD and/or intellectual disability. As to claimant's developmental history, he was exposed prenatally to methamphetamines. He was born in October 2020 and discharged to foster care with his grandmother after his birth. In 2023, his grandmother and aunt adopted him. He hit developmental milestones until age two, when he started displaying food aversions and other sensory behaviors involving noise, odors, and wearing clothing. He can initiate and engage in social contact. He has difficulties regulating his emotions, handling transitions, and following instructions and commands. He had been receiving weekly in-home therapy since December 2023, but the therapy was set to end that month. In 2023, he attended daycare for one week but stopped due to separation anxiety.

7. As to Dr. Vazquez's clinical observations, claimant was cooperative with testing, but he was distracted and had difficulty following instructions. He used words,

short sentences, and gestures to communicate, but he displayed echolalia (repetition) and was difficult to understand. He made eye contact, initiated play, and interacted with Dr. Vazquez.

8. As to Dr. Vazquez's intellectual disability evaluation, testing revealed below average cognitive ability and adaptive skills, with scores in the extremely low range in working memory and self-care. Still, Dr. Vazquez concluded there were no indications that claimant had an intellectual disability.

9. As to Dr. Vazquez's autism evaluation, she administered the Autism Diagnostic Observation Schedule, 2nd Edition (ADOS-2), Module 1, which is a semi-structured, standardized assessment instrument designed for children 31 months and older who are pre-verbal or using single words. Claimant was able to play appropriately during free play, engage in pretend play, respond to his name, engage in symbolic imitation, anticipate social routine, communicate through words and gestures, make eye contact, utilize facial expressions, and interact with Dr. Vazquez. Dr. Vazquez concluded that claimant's overall score on the ADOS-2, Module 1 testing indicated a low evidence level of ASD-related symptoms and did not establish claimant had ASD.

10. As to her diagnostic impression following her evaluation, Dr. Vazquez stated, "No diagnosis."

Thomas L. Carrillo, Ph.D.

11. Clinical Psychologist Thomas L. Carrillo, Ph.D., performed a psychological evaluation of claimant on July 8, 2025, when claimant was four years and eight months old. His psychological report is summarized as follows: SGPRC referred claimant to Dr. Carrillo for an assessment of developmental disabilities, specifically, intellectual

disability and/or ASD. Claimant was four years and eight months old at the time of the evaluation.

12. As to Dr. Carillo's clinical observations, claimant was talkative, highly active, and made good eye contact. He was in constant motion, fidgety, and impulsive. His attention span was short, and he required constant redirection. With considerable encouragement, claimant eventually responded to test items, and Dr. Carillo was able to obtain valid test results reflecting claimant's overall intellectual and adaptive functioning.

13. As to Dr. Carillo's testing, cognitive testing revealed "superior intelligence," with a full-scale IQ score falling within the 97th percentile. Adaptive functioning testing revealed: normal communication skills (receptive, expressive, and written); normal motor skills; and borderline (low-to-normal) adaptive and socialization skills. Social-emotional and behavioral testing revealed symptoms associated with Attention-Deficit/Hyperactivity Disorder (ADHD); claimant was very active, impulsive, easily distracted, and displayed behavioral issues, which Dr. Carillo attributed in part to claimant's superior intelligence and attendant boredom. Dr. Carillo found claimant did not display unusual communication patterns seen in children with ASD and did not demonstrate "Autistic-like" behaviors. As a precautionary measure, Dr. Carillo administered the ADOS-2, Module 2, which yielded scores that demonstrated "minimal to no evidence" of ASD and fell "well below the threshold for a diagnosis of [ASD]."

14. Dr. Carillo diagnosed claimant with ADHD, combined presentation, severe, with normal communication skills, low-normal adaptive skills, and cognitive abilities within the superior range of intelligence. Specific diagnostic findings included claimant's difficulty paying close attention to details and sustaining attention, appearing as if he was not listening when spoken to directly, difficulty following

instructions, clear avoidance of tasks requiring sustained mental effort, distractibility, high impulsivity, constant motion, and repetitive and self-injurious behaviors.

Tricia Choy, Ph.D., and Esther Hong, Ph.D.

15. On January 27, 2026, claimant, who was five years and two months old at the time, underwent a comprehensive ASD evaluation at the Thompson Autism and Neurodevelopmental Center, upon referral from claimant’s pediatrician. Tricia Choy, Ph.D., and Esther Hong, Ph.D., performed the evaluation, which included reviewing documents, interviewing caretakers, in-clinic observations, and diagnostic testing, including the following ASD-related tests: ADOS-2, Module 3; Behavior Assessment System for Children, Stanford Binet Intelligence Scales, and Vineland Adaptive Behavior Scales.

16. Drs. Choy and Hong found that claimant did not meet the diagnostic criteria for ASD. Claimant’s family reported difficulties with social functioning, repetitive behaviors, sensory sensitivities, language, transitions, and restricted interests. However, Drs. Choy and Hong concluded, “[Claimant] currently does not demonstrate social communication deficits and repetitive behaviors to the intensity or pervasiveness that warrant an ASD diagnosis” (emphasis in original). He displayed relative strengths in social functioning, including social reciprocity, nonverbal communication, and engagement. Throughout the assessment day, he was flexible in his play and did not engage in repetitive behavior or sensory sensitivities. While he displayed difficulty transitioning to the testing room initially, throughout the day, he “easily” transitioned between multiple activities. Cognitive testing revealed scores in the “high average” range overall: his nonverbal and verbal IQ, working memory, and visual spatial scores fell in the “high average” range; his fluid reasoning score fell in the

“superior” range; and his quantitative reasoning and knowledge scores fell in the “average” range.

17. Drs. Choy and Hong found claimant met the criteria for “other specified neurodevelopmental disorder due to a history of in utero [*sic*] substance exposure” and ADHD, unspecified. While claimant’s caregivers reported delays in adaptive functioning, the reported delays were “likely a performance deficit rather than a true skill deficit.” However, claimant did have difficulty remaining seated, frequently moved around, was easily distracted, required repeated redirection, and exhibited delays causing impairments in social, occupational, and other areas of functioning. While he did not meet the full diagnostic criteria for a specific neurodevelopmental disorder, he exhibited characteristics of a neurodevelopmental disorder (e.g., hyperactivity, impulsivity, difficulty with transitions, feeding challenges, and behavioral challenges), likely associated with prenatal drug exposure.

Claimant’s Evidence

TESTIMONIAL EVIDENCE

18. The testimony of claimant’s mother is summarized as follows: Claimant was exposed to drugs when his birth mother was pregnant with him. He has developmental delays, a feeding disorder, severe ADHD, and ASD. He was previously receiving Applied Behavior Analysis (ABA) therapy but has received only medical care for the past two years. It has been very challenging getting him the support he needs. While claimant has been evaluated, the evaluations are just one hour. Claimant’s mother is with him for more than a one-hour evaluation. She sees that he is going through a lot and has issues and challenges that need support from SGPRC.

DOCUMENTARY EVIDENCE

19. Deborah Hsung, D.O., completed a "Head Start and Early Learning Division Physical Exam Form," documenting physical examination findings made on February 5, 2025. In addition to noting basic findings, such as claimant's height and weight, Dr. Hsung assessed, "underweight pediatric Feeding Disorder" and "possible sensory processing disorder vs. autism." She referred claimant to pediatric occupational therapy for evaluation and treatment and to a gastroenterologist.

20. A form entitled, "Head Start and Early Learning Division Intervention Form Program Year 2024-2025," signed by claimant's mother and a clinical supervisor on October 2, 2024, is summarized as follows. Identified goals are to try foods and work on self-regulation. Identified parent involvement is to encourage claimant to eat and try new foods, supplement his diet with vitamins and protein, and continue his play therapy once a week. Identified intervention activities are to encourage claimant to try foods by providing choices and incorporating play.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. An individual seeking regional center services under the Lanterman Act has the burden of establishing he meets the eligibility criteria for such services. He must meet this burden with a preponderance of the evidence, meaning simply, he must present evidence showing his eligibility for regional center services is "more likely than not." (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1387–88; Evid. Code, §§ 115, 500.)

Applicable Law

2. The purpose of the Lanterman Act (Welf. & Inst. Code, § 4500 et seq.) is to provide a “pattern of facilities and services . . . sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life.” (*Assn. of Retarded Citizens v. Dept. of Developmental Services* (1985) 38 Cal.3d 384, 388; Welf. & Inst. Code, § 4501.)

3. The Department of Developmental Services (Department) is the state agency responsible for carrying out the laws related to the care, custody, and treatment of individuals with developmental disabilities under the Lanterman Act. (Welf. & Inst. Code, § 4416.) To comply with its statutory mandate, the Department contracts with private non-profit community agencies, known as “regional centers,” to provide the developmentally disabled with “access to the services and supports best suited to them throughout their lifetime.” (Welf. & Inst. Code, § 4620.)

4. Under the Lanterman Act, a “developmental disability” is a disability that: (1) is attributable to an intellectual disability, cerebral palsy, epilepsy, autism, or disabling conditions closely related to an intellectual disability or requiring treatment similar to the treatment required for individuals with an intellectual disability; (2) originated before age 18 and is likely to continue indefinitely; and (3) constitutes a “substantial disability” for the individual. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subds. (a)–(b).)¹

¹ The Lanterman Act was amended to eliminate the term “mental retardation” and replace it with “intellectual disability,” as reflected in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). The more current DSM-5, text

Conclusion

5. Claimant has not met his burden of presenting evidence establishing his eligibility for regional center services under the Lanterman Act. In particular, the evidence does not establish a developmental disability attributable to an intellectual disability, cerebral palsy, epilepsy, autism, or disabling condition closely related to an intellectual disability or requiring treatment similar to the treatment required for individuals with an intellectual disability. (Welf. & Inst. Code, § 4512, subd. (a)(1); Cal. Code Regs., tit. 17, § 54000, subd. (a).)

6. While claimant's mother testified that claimant had ASD, there is no evidence of an ASD diagnosis. To the contrary, four separate clinical psychologists performed comprehensive ASD evaluations and unanimously agreed that claimant did not meet the diagnostic criteria for ASD. On March 6, 2024, Dr. Vazquez concluded that her findings did not establish ASD. On July 8, 2025, Dr. Carillo found that claimant did not display behavior typical in children claimant's age with ASD, and his diagnostic testing yielded scores that fell "well below the threshold for a diagnosis" and demonstrated "minimal to no evidence" of ASD. On January 27, 2026, Dr. Choy and Dr. Hong similarly found that claimant's in-clinic behavior and diagnostic testing did not warrant an ASD diagnosis.

revision, no longer uses the term "intellectual disability" and instead refers to the condition as intellectual developmental disorder (IDD). Many of the regional center forms have not been updated to reflect this change. Accordingly, for purposes of this decision, "mental retardation," "intellectual disability," and "IDD" mean the same thing.

7. While Drs. Choy and Hong diagnosed claimant with a neurodevelopmental disorder, claimant did not assert, and the evidence did not establish, that claimant had a neurodevelopmental disorder closely related to, or requiring similar treatment as, an intellectual disability (Fifth Category). Moreover, Dr. Vasquez and Dr. Carillo expressly found claimant did not have an intellectual disability, and all the clinical psychologists who evaluated claimant, including Dr. Choy and Dr. Hong, found his intellectual functioning was similar or superior to other children his age.

8. Considering all the evidence, claimant has not met his burden of establishing his eligibility for regional center services under the Lanterman Act.

ORDER

Claimant's appeal from San Gabriel/Pomona Regional Center's determination that he is not eligible for regional center services is denied. San Gabriel/Pomona Regional Center's determination that claimant is not eligible for regional center services is affirmed.

DATE: May 15, 2026

SHARON LAHEY
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.