

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No.: 2015111011

**DECISION**

Jennifer M. Russell, Administrative Law Judge with the Office of Administrative Hearings, heard this matter in Culver City, California on June 16, 2016. Lisa Basiri, M.A., Fair Hearing Coordinator, represented Westside Regional Center (service agency or WRC). Mother represented Claimant.<sup>1</sup>

**ISSUE FOR DETERMINATION**

Whether Claimant is eligible for regional center services and supports under the qualifying category of “autism” as provided for in the Lanterman Developmental Disabilities Services Act (Lanterman Act).<sup>2</sup>

**FACTUAL FINDINGS**

1. Claimant is a 5-year old male residing with his mother. Claimant attained motor developmental milestones within normal limits, but he showed delays in language acquisition. At age 22 months, Claimant was diagnosed with Expressive Language Disorder, and he subsequently received speech therapy. Claimant attended a therapeutic preschool, where he manifested delays in his social skills. When Claimant was enrolled in preschool,

---

<sup>1</sup> Claimant’s name and that of his representative are not used to protect Claimant’s privacy.

<sup>2</sup> Welf. & Inst. Code, § 47500, et seq.

Claimant was administered the Mullens Scales of Early Learning to assess his cognitive and motor abilities. An initial administration of the Mullens Scales yielded scores within the average range. During the initial administration of the Mullens Scales Claimant's speech was repetitive and that his intonation was unusual. Claimant focused on objects rather than on persons with whom he interacted. During a subsequent administration of the Mullens Scales Claimant presented with echolalia, unusual voice intonation, and difficulty making with eye contact. His scores in the subsequent administration were within the average to high average ranges.<sup>3</sup>

2. It is undisputed that Claimant presents with an Autism Spectrum Disorder (ASD). WRC evaluated Claimant to determine his eligibility for services and supports provided for in the Lanterman Developmental Disabilities Services Act. WRC determined that, notwithstanding his ASD diagnosis, Claimant is ineligible for Lanterman Act services on grounds that Claimant's developmental disability is not a "substantial disability." Claimant appealed.

#### *Westside Regional Center's Evaluation of Claimant*

3a. Thompson J. Kelly, Ph.D. is the service agency's Chief Psychologist and Manager of Intake and Eligibility Services. Dr. Kelly has an extensive professional background with the processes for assessing individuals with ASD. His testimony at the hearing establishes that the service agency relies on diagnostic criteria set forth in the American Psychiatric Association's Diagnostic and Statistical Manual for Mental Disorders, Fifth Edition (2013) (DSM-5) to determine eligibility for Lanterman Act services and supports on the basis of "autism." In fact, in this case all the experts assessing Claimant and rendering opinions regarding Claimant's developmental disability did so using the DSM-5.<sup>4</sup> The DSM-5 defines "autism" as "Autism Spectrum Disorder," which encompasses, among other things, Asperger's Disorder. (DSM-5 at p. 809.)

3b. Dr. Kelly participated on a task force committee of the Association of Regional Center Agencies (ARCA) charged with developing guidelines for defining and assessing whether individuals present with a "substantial disability." Dr. Kelly's testimony at the hearing further establishes that those guidelines, *Association of Regional Center Agencies Clinical Recommendations for Defining "Substantial Disability" for the California Regional Centers* (Exh.11) and *ACRA Guidelines for Assessing Substantial Disability* (Exh.12), inform the deliberative processes of the service agency's intake and eligibility team making eligibility determinations generally and particularly in this matter.

---

<sup>3</sup> Administration of the Mullens Scales of Early Learning to Claimant is reported in both the Psychological Evaluation Report prepared by Beth Wehner, Ph.D. (Exh.9) and the Psychological Assessment prepared by Rebecca R. Dubner, Psy.D. (Exh.6). No detailed analysis of the reported average and high average range scores accompany these reports.

<sup>4</sup> At the hearing, the Administrative Law Judge, pursuant to Government Code section 11515, took official notice of the DSM-5.

4. Dr. Kelly's testimony at the hearing establishes that the service agency's intake and eligibility team reviewed and deliberated over information provided in the several reports set forth below.

a. When Claimant was a four-year old, his pediatrician referred him to licensed clinical psychologist Beth Wehner for evaluation because Mother had concerns about Claimant's behaviors, including difficulty sleeping and obsessive preoccupations and interests. Dr. Wehner administered several assessments to Claimant, including the Differential Ability Scales, Second Edition, the Wechsler Preschool and Primary Scale of Intelligence, Fourth Edition, the Autism Diagnostic Observation Schedule. Dr. Wehner determined that Claimant "presents with restricted interests, difficulties sleeping and more recently school avoidance." In a February 20, 2015 Psychological Evaluation Report, Dr. Wehner provides the following excerpted summary:

[Claimant] shows difficulties with social interactions (e.g. inconsistent use of eye gaze to regulate interactions, limited peer relationships), impairments in his communication (e.g. difficulties engaging in a conversation, use of rote or stereotypic language, limited pretend play skills), and restricted interests and stereotyped behaviors (e.g. intense interest in vehicles). These behaviors are seen across contexts and have been present since early in his development. By history and observations his symptoms are consistent with a diagnosis of Autism Spectrum Disorder (ASD). [¶] [Claimant's] cognitive functioning places him solidly in the Average range and thus, he is considered to be high-functioning.

(Exh.9.)

b. Dr. Wehner's February 20, 2015 Psychological Evaluation Report provides several recommendations, including the following:

[Claimant] should access services at school through an Individual Education Program (IEP). For purposes of his IEP his educational identification should be as a child with an Autism Spectrum Disorder. He should receive services that address his needs across a number of areas including: social, play, academic, speech/language, motor/sensory.

[Claimant's] ability to use his language in a functional and communicative manner is impaired. Speech therapy privately and/or at school is recommended to address the pragmatic deficits he shows. This would include work on building conversations skills (e.g. staying on topic, following along in conversations with peers, selecting appropriate conversation topics, turn-taking in conversations, appropriate volume and rate of speech), understanding the use and meaning of voice tone and inflection, decreasing the use of rote/stereotypic language, improving eye contact and linking it with his language and gesture use.

(Exh.9.)

c. Rebecca Choice, Intake Specialist/Service Coordinator, interviewed Claimant as part of the intake process on June 24, 2015, and she prepared a Psychosocial Report containing the following summary:

[Claimant] presented as a 4.11 year old Caucasian male, friendly, energetic, moderate eye contact and reciprocal in conversation. [Claimant] presented well groomed; appearance and age are congruent. [Claimant] appears to have a challenge with social boundaries that includes disrespect for authority. As demonstrated by ignoring his mother's repeated requests to say "excuse me" before interrupting her conversation with the Assessor. [Claimant] appeared to have phonological problems as demonstrated in his enunciation of some words. Assessor observed that [Claimant] engaged in extensive self-play with loud vocal sound effects. According to [Claimant's mother, he is sensitive to specific environmental noises such as the vacuum cleaner, blender and occasionally the radio. Assessor observed that [Claimant] appears to have a fixation on construction[-]related objects such as trucks, as demonstration [*sic*] in his ability to name 12 different construction objects. Assessor did not observe any severe cognitive deficits. According to [Claimant's] mother he often appears depressed and anxious, which occasionally results in emotional outbursts. A psychological evaluation is necessary to determine [Claimant's] level and severity of specific domain impairments/deficits.

(Exh.7.)

d. Ms. Choice referred Claimant to Rebecca R. Dubner, Psy.D. for a psychological assessment in order to assist the service agency's intake and eligibility team with its eligibility determination. Dr. Dubner assessed Claimant over a three-day period which included her observation of Claimant in his school setting. Dr. Dubner administered several assessments to Claimant, including the Vineland Adaptive Behavior Scales, Second Edition (VABS-II), the Wechsler Preschool and Primary Scales of Intelligence, Fourth Edition, the Gilliam Autism Rating Scale, Third Edition (GARS-3), the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), and the Childhood Autism Rating Scale, Second Edition (CARS-2). Dr. Dubner prepared a Psychological Assessment in which she reports, among other things, Claimant's adaptive functioning as follows:

The results of the VABS-II indicate that [Claimant's] overall adaptive functioning (Adaptive Behavior Composite=87) fell within the adequate range. In addition, [Claimant's] Communication Skills (Composite Score=87), Daily Living Skills (Composite Score=97), and Motor Skills (Composite Score=91) fell within the adequate range as well, while his Socialization Skills (Composite Score=83) fell within the moderately low range.

//

//

### Communication Skills:

[Claimant] is able to point to at least three major body parts when asked. He is able to follow instructions with one action and is not able to follow instructions with two actions. He sometimes listens to instructions yet mother has to keep repeating it. [Claimant] is not able to listen to a story for 15 minutes and never follows instructions or direction heard five minutes before. [Claimant] is not able to say his correct age or first name when asked. He has less than 50 words in his vocabulary. He tries to sing the alphabet but he does not know all the letters of [the] alphabet. He does not ask questions beginning with when or why. He is not able to write his name and does not recognize his own name in printed form.

### Daily Living Skills:

[Claimant] is starting to be able to feed himself using eating utensils. He uses both his right and left hands and has not yet developed a tendency. He is not able [to] dress yet he is able [to] undress himself. He is not capable of using the toilet independently. He has a tantrum when he is placed on the potty chair. He is not able to put his shoes on the correct feet but he helps in doing so. He is unable to brush his teeth and never wears appropriate clothing during wet or cold weather. He does not like wearing clothes. He is careful around hot objects. He is sometimes able to help with simple household chores. . . .

### Socialization Skills:

[Claimant] will sometimes demonstrate friendship-seeking behavior. He never imitates relatively complex actions as they are being performed. He answers when familiar adults make small talk. He never uses words to express his own emotions. He sometimes recognizes the likes and dislikes of others. He never shows the same level of emotion as others around him. He never plays simple make-believe play with others. He sometimes seeks out others for play or companionship. He never takes turns without being asked. [Claimant] says "please" when asking for something and he will never end conversations appropriately. He never responds appropriately to reasonable changes in routine. He never acts appropriately when introduced to strangers and never controls anger or hurt feelings when plans change for reasons that cannot be helped.

### Motor Skills:

[Claimant] is not able to jump with both feet off the ground. He is able to climb on and off play equipment. He is able to run smoothly. He is not able to pedal a tricycle. He is able to walk up and down stairs. He is able to place objects into a container . . . . He is able to open doors by turning doorknobs.

He gets out of his car seat while driving. He is able to stack at least four small blocks. He is not able to unwrap small pieces of candy.

(Exh.6.)

e. Dr. Dubner's Psychological Assessment states in its "Diagnostic Consideration" section the following:

[Claimant] does meet diagnostic criteria for Autism Spectrum Disorder. Formal measures utilizing the CARS-2, GARS-2 and ADOS-2 indicated qualitative impairments in the area of communication and reciprocal social interactions, and evidence of restricted or stereotyped behaviors or interests according to the DSM-V criteria for 299.00 Autism Spectrum Disorder. [Claimant] evidences challenges in functional speech and reciprocal social interactions; he is not responsive to a social smile, shares little enjoyment, sometime shows items of interest, shows little interest in socializing with other children, is unable to direct his facial expressions appropriately, demonstrates inconsistent eye contact, and does not engage in social chat. Furthermore, he does demonstrate significant difficulty with transitions, rigidity, fixations on his interests, or repetitive behaviors. . . . Based on observation, interview and administration of the VABS, adaptive functioning is within adequate range in areas of Communication, Motor and Daily Living Skills, and in the moderately low range in area of Socialization Skills. His cognitive functioning has consistently fallen with[in] the Average range.

(Exh.6; underline emphasis in original.)

5. On January 1, 2016, the service agency's intake and eligibility team convened to observe an evaluation of Claimant during unstructured play at the service agency. The evaluator, Karen E. Hastings, Psy.D., prepared a report containing the following information and conclusions regarding Claimant's receptive and expressive language, learning, self-care, self-direction, mobility and capacity independent living or self-efficiency.

#### RECEPTIVE AND EXPRESSIVE LANGUAGE

The examiner asked mother about any difficulties [Claimant] had with communication. She referenced his difficulties in the past, but acknowledged that he had no difficulty communicating his wants and needs at the present time. According to mother, [Claimant] sometimes used an inappropriate syntax, but otherwise he had no substantial difficulties. For the examiner who had never met [Claimant] before, his speech was easy to understand and he could carry on a conversation around focused play (which was not limited to any preoccupations). In the examiner's opinion, [Claimant] did not demonstrate substantial limitations in expressive and receptive language.

#### LEARNING

Mother was asked about any difficulties in school in terms of learning. She acknowledged that he was bright and did not have any significant difficulties

in learning. He had previously been in a French immersion program, which precipitated anxiety, and he eventually refused to attend. Therefore, he now attends a different school but he has adjusted to the school routine. An examination of his cognitive scores from early 2015 indicate they were in the average range.

#### SELF-CARE

[Claimant] is toilet trained and he is able to feed himself. He is able to undress himself, and he is able to dress himself but needs prompts to ‘keep going’ or he will wander off and not complete the task.

#### SELF-DIRECTION

[Claimant] has the most difficulty in this area. He has difficulty initiating and carrying out certain tasks of daily living such as getting dressed by himself. Mother states that if she did not stand there and tell him what to do next, he would wander off before completing the task. Likewise, at bedtime, she has to prompt him to take the next step. Mother also said [Claimant] has significant difficulty falling asleep. She characterized his mind as being so active that it was difficult for him to turn off his thinking. He goes to bed and will stay in bed but he takes 30-60 minutes to fall asleep. While in bed, before falling asleep, he will talk about a [sic], which currently centers around the military. Mother stated [Claimant] becomes extremely anxious in novel situations or around new people. However, if today’s observation is any indication of his level of anxiety, with time, encouragement and support he was able to overcome his reluctance to play with new peers within a relatively short period of time and engage in cooperative play.

#### MOBILITY

In the examiner’s opinion, [Claimant] had no difficulty with mobility during today’s observation.

#### CAPACITY FOR INDEPENDENT LIVING/ECONOMIC SELF-EFFICIENCY

[Claimant] is 5.5 years of age therefore his prognosis in these areas is speculative. However, given his lack of intellectual and language impairment as well as his responsiveness to interventions thus far, his prognosis is most likely favorable as to his ability to live independently and support himself in the future.

(Exh.5.)

6. Relying on the reports prepared by Drs. Wehner, Dubner, and Hastings and Ms. Choice, the intake and eligibility team determined that Claimant presented with “no substantial handicap in 3 domains.” (Exh.4.) At the hearing, Dr. Kelly opined that Claimant’s future prognosis is favorable because ASD is “conceptualized as a spectrum.” The concern is therefore with determining whether Claimant is “so impacted by disability

that he will require support throughout live to live independently.” According to Dr. Kelly, individuals with characteristics similar to Claimant “can benefit from remediation,” and there is evidence, for example, that Claimant has benefited from speech therapy intervention. Dr. Kelly maintained, however, that Lanterman Act services and supports were not required for Claimant. Dr. Kelly noted Claimant’s “intact cognition” and stated that “a lot of individuals with intact cognition can function very well in certain capacities,” including “positions requiring solitary functions.” Dr. Kelly specifically listed the fields of engineering and construction.

### *Mother’s Evaluation of Claimant*

7. Mother admits that Claimant is “high functioning,” but she maintains that Claimant “meets the criteria for a lot of help.” Mother asserted that Claimant’s “quirks didn’t melt away with maturity.” Claimant does not attend to his self-care needs, including dressing and undressing and wiping himself. Claimant has obsessions with things that he gets fixated on—ceiling fans, windmills, cars, and military and construction vehicles. Claimant “does not understand emotions other than happy, sad, [and] mad.” Mother explained that she has self-financed speech and occupational therapy for Claimant in the past, but that as a single parent she has to give her finances a rest. Mother asserted that the service agency focused on Claimant’s functioning in academic settings to the exclusion of “other settings.” Mother asserted further that Claimant “has been in an immense amount of therapy” and that Claimant “made strides because he worked hard.” Mother speculated that the service agency was denying Claimant Lanterman Act services and supports because she was “proactive” and “changed [Claimant’s] trajectory.”

## LEGAL CONCLUSIONS

1. As Claimant is seeking to establish eligibility for government benefits or services, he has the burden of proving by a preponderance of the evidence that he has met the criteria for eligibility. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156, 161[disability benefits]; *Greator v. Board of Admin.* (1979) 91 Cal.App.3d 54, 57 [retirement benefits]; Evid. Code, § 500.) “‘Preponderance of the evidence means evidence that has more convincing force than that opposed to it.’ (Citations.) . . . [T]he sole focus of the legal definition of ‘preponderance’ in the phrase ‘preponderance of the evidence’ is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant.” (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325.) (Emphasis in text.) In meeting the burden of proof by a preponderance of the evidence, the complainant “must produce substantial evidence, contradicted or un-contradicted, which supports the finding.” (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

2. Claimant must establish by a preponderance of evidence that he has a qualifying “developmental disability.” Welfare and Institution Code section 4512, subdivision (a), defines “developmental disability” to mean the following:

[A] disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. . . . [T]his term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

3. California Code of Regulations, title 17 (CCR), section 54000 further defines “developmental disability” as follows:

(a) “Developmental Disability” means a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation.

(b) The Developmental Disability shall:

(1) Originate before age eighteen;

(2) Be likely to continue indefinitely;

(3) Constitute a substantial disability for the individual . . . ;

(c) Developmental Disability shall not include handicapping conditions that are:

(1) Solely psychiatric disorders where there is impaired intellectual or social functioning which originated as a result of the psychiatric disorder or treatment given for such a disorder. Such psychiatric disorders include psycho-social deprivation and/or psychosis, severe neurosis or personality disorders even where social and intellectual functioning have become seriously impaired as an integral manifestation of the disorder.

(2) Solely learning disabilities. A learning disability is a condition which manifests as a significant discrepancy between estimated cognitive potential and actual level of educational performance and which is not a result of generalized mental retardation, educational or psycho-social deprivation, psychiatric disorder, or sensory loss.

(3) Solely physical in nature. These conditions include congenital anomalies or conditions acquired through disease, accident, or faulty development which are not associated with a neurological impairment that results in need for treatment similar to that required for mental retardation.

4. Establishing the existence of a developmental disability within the meaning of section 4512, subdivision (a), requires Claimant to additionally prove by a preponderance of evidence that the developmental disability is a “substantial disability,” defined in section 4512, subdivision (l) to mean “the existence of significant 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.”<sup>5</sup>

5. The Lanterman Act and its implementing regulations contain no definition of “autism.” The service agency’s practice, as Dr. Kelly’s testimony establishes, has been to define “autism” using diagnostic criteria set forth in the American Psychiatric Association’s Diagnostic and Statistical Manual for Mental Disorders (the DSM) when determining eligibility for services and supports on the basis of “autism.” In fact, all the experts assessing Claimant and rendering opinions regarding Claimant’s condition did so using the most recent iteration of the DSM known as the DSM-5. (See Factual Findings 3a and 3b.)

6. The DMS-5 diagnostic criteria for Autism Spectrum Disorder are as follows:

---

<sup>5</sup> CCR section 54001, subdivision (a), similarly defines “substantial disability” as follows:

(1) A condition which results in a major impairment of cognitive and/or social functioning, representing sufficient impairment to require interdisciplinary planning and coordination of special or generic services to assist the individual in achieving maximum potential; and

(2) The existence of significant functional limitations, as determined by the regional center, in three or more of the following areas of major life activity, as appropriate to the person’s age:

- (A) Receptive and expressive language;
- (B) Learning;
- (C) Self-care;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living;
- (G) Economic self-sufficiency.

CCR section 54002 defines “cognitive” as “the ability of an individual to solve problems with insight to adapt to new situations, to think abstractly, and to profit from experience.”

- A. Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following, currently or by history:
1. Deficits in social-emotional reciprocity, ranging, for example, from abnormal social approach and failure of normal back-and-forth conversation; to reduced sharing of interests, emotions, or affect; to failure to initiate or respond to social interactions.
  2. Deficits in nonverbal communicative behaviors used for social interaction, ranging, for example, from poorly integrated verbal and nonverbal communication; to abnormalities in eye contact and body language or deficits in understanding and use of gestures; to a total lack of facial expressions and nonverbal communication.
  3. Deficits in developing, maintaining, and understanding relationships, ranging, for example, from difficulties adjusting behavior to suit various social contexts; to difficulties in sharing imaginative play or in making friends; to absence of interest in peers.
- B. Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history:
1. Stereotyped or repetitive motor movements, use of objects, or speech (e.g., simple motor stereotypies, lining up toys or flipping objects, echolalia, idiosyncratic phrases).
  2. Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior (e.g., extreme distress at small changes, difficulties with transitions, rigid thinking patterns, greeting rituals, need to take same route or eat same food every day).
  3. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests).
  4. Hyper- or hyporeactivity to sensory input or unusual interest in sensory aspects of the environment (e.g., apparent indifference to pain/temperature, adverse response to specific sound or textures, excessive smelling or touching of objects, visual fascination with lights or movement).
- C. Symptoms must be present in early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life).

D. Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.

7. These essential diagnostic features of ASD—deficits in social communication and social interaction (Criterion A) and restricted repetitive patterns of behavior, interests and activities (Criterion B)—must be present from early childhood and limit or impair everyday functioning (Criteria C and D).

8. It is undisputed that, from his early childhood, Claimant presented with deficits in social communication and social interaction across multiple contexts and with restricted, repetitive patterns of behavior, interests, or activities. These are the diagnostic characteristics of ASD. Claimant therefore presents with a qualifying developmental disability—“autism”—under the Lanterman Act. It is not established by a preponderance of evidence, however, that Claimant’s qualifying developmental disability is a “substantial disability” across multiple settings in at least three or more areas of major life activities.

(A) Receptive and expressive language: Presently, Claimant demonstrates no difficulty communicating his wants and needs. Claimant is able to use language in a functional and communicative manner. He engages in conversation. Mother admits observing improvement in Claimant’s language skills as a result of therapeutic interventions.

(B) Learning: Claimant’s ability to acquire knowledge or skills is not substantially impaired. Claimant’s general intellectual function is described as “intact.” In fact, substantial evidence establishes that when expressed as a numerical measurement, Claimant’s intellectual functioning is reported as within average and above average ranges.

(C) Self-care: With age-appropriate prompts, Claimant is capable of caring for his personal hygiene and grooming needs.

(D) Mobility: Claimant requires no crutches, wheelchair, or walker for mobility; he has no gait abnormalities or coordination problems.

(E) Self-Direction: Claimant has significant difficulty with self-direction. Claimant requires constant prompting initiate and complete tasks. Claimant lacks age-appropriate emotional maturity for coping with his fears and anxiety.

(F) Capacity for independent living: Claimant is presently capable of helping with simple household chores. However, given his developmental age, any further opinion regarding his capacity of independent living would amount to speculation.

(G) Economic self-sufficiency: Based on his present, demonstrated ability for learning, Claimant, like other individuals with developmental characteristics similar to his, is reasonably expected to achieve knowledge and training for employment leading to his economic self-sufficiency.

9. By reason of Factual Findings 1 through 7 and Legal Conclusions 1 through 8, cause exists to deny Claimant's appeal. Claimant has not met his burden of establishing by a preponderance of evidence his eligibility for Lanterman Act services and supports under the qualifying category of "autism" as provided for in section 4512, subdivision (a) of the Welfare and Institutions Code.

#### ORDER

1. Claimant's appeal is denied.

2. Westside Regional Center's determination that Claimant is ineligible for services and supports pursuant to the Lanterman Developmental Disability Services Act under the qualifying category of "autism" is affirmed.

Date: June 27, 2016

---

JENNIFER M. RUSSELL  
Administrative Law Judge  
Office of Administrative Hearings

#### NOTICE

This is a final administrative decision. This administrative decision binds both parties. Either party may appeal this administrative decision to a court of competent jurisdiction within 90 days.