

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of Claimant

vs.

San Diego Regional Center,

Service Agency.

OAH No. 2013080955

**DECISION**

Beth Faber Jacobs, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on December 16, 2013.

Ronald R. House, Attorney at Law, represented the San Diego Regional Center.

Wendy R. Dumlao, Attorney at Law, represented claimant,<sup>1</sup> whose mother was present during the hearing.

Oral and documentary evidence was received. The record was kept open for the submission of written closing argument. Claimant's Closing Brief was received as argument and marked as Exhibit L; the San Diego Regional Center's Closing Argument was received as argument and marked as Exhibit 8; and the curriculum vita of claimant's expert, Maria Frailey, Ph.D., was received and marked as Exhibit M. The record was closed, and the matter was submitted on January 10, 2014.

**ISSUES**

The core issue is whether claimant, who is 49 years old, is eligible for regional center services based on a diagnosis of autism. The parties identified four sub-issues to be addressed: (1) Does claimant have a diagnosis of autism? (2) If so, did his autism begin before age 18? (3) If claimant has autism, does it currently constitute a substantial disability

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<sup>1</sup> In order to protect the confidentiality of claimant and his family, names are not used in this decision.

for him? (4) To be eligible for services, must claimant establish that autism constituted a substantial disability for him before he reached the age of 18?

## FACTUAL FINDINGS

### *Jurisdictional Matters*

1. On June 26, 2013, San Diego Regional Center (regional center) notified claimant that he was not eligible for regional center services.

2. Claimant's mother made a timely request for a fair hearing. She believes claimant is eligible for services under the category of autism.

### *Evidence Presented at the Hearing*

3. Claimant is a 48 year-old, unconserved adult.

4. Claimant's mother received prenatal care during her pregnancy with claimant, and claimant was born at full term. Claimant met developmental milestones for sitting alone, saying his first words, crawling, and walking. He did not begin talking, however, until about age three.

5. Claimant has virtually no records regarding his cognitive, academic, psychological, adaptive, or behavioral strengths and challenges as a child. Claimant produced one high school transcript but no other school records. Claimant provided no medical records from his childhood. The evidence regarding claimant's childhood was pieced together through interviews with claimant's parents, retrospective comments by some staff at the schools claimant attended, one of claimant's friends, claimant himself, and by the testimony provided by claimant's mother.

6. When claimant was about three years old, his physician identified claimant as having a language delay. The physician suggested it was because two languages were spoken in the home and because claimant's older brother "did all the talking" for claimant. Claimant repeated kindergarten because of his language delay and "immaturity." Sometimes claimant had tantrums, but they were not considered excessive. Other than not liking to be in a large crowd, claimant did not show any sensory sensitivity. Claimant's mother volunteered in his grade school classrooms and observed him. Initially, he did well in school. In second grade, claimant's mother thought he was "different from the other kids, but not that different." She reported that "he did what little boys did." He was in regular classes. In fourth grade, the school suggested to claimant's mother that he might be gifted. He was tested and missed the gifted program eligibility cut-off by a few points. Claimant did not receive any special services during his grade school years.

7. In middle school, claimant became known as a class clown. He was described as being “rambunctious.” He rode motorcycles and once drove his motorcycle in the school hallway. When he was told to behave, he could modify his behavior. When he had behavioral problems in remedial math, he was transferred to a higher level math class, and his behavioral problems resolved. Sometimes claimant muttered under his breath, or repeated words. He stuttered and was teased about it.

8. Claimant is the middle child in his family. Claimant’s older brother was popular and successful in high school. Claimant’s father expected the same achievements for claimant, who was not as successful or popular, and it was difficult for claimant to try to live in his brother’s shadow. Claimant refused to go to the same high school as his older brother, and claimant attended another school. When claimant’s mother had discussions with the school principal about selecting a high school for claimant, the principal did not mention any concerns about claimant’s ability to achieve or the need for any supports. Claimant did not do well academically in his new school, and he dropped out in the 10th or 11th grade. When claimant’s grandmother offered a financial incentive if he obtained a diploma, claimant attended adult school and obtained his general education diploma (GED). Claimant took some classes at the local community college.

9. Claimant had five or six friends while he was growing up. He is still friendly with some of them. The friendships were real and were not what might be referred to as a “pity friendship.” Claimant had an unexplained run-in with the law when he was in high school, and about a year ago he was involuntarily committed to a psychiatric hospital for a short period under Welfare and Institutions Code section 5150.

10. Claimant still stutters, but he can be understood. Claimant has a full scale IQ of 86, which is low average.

11. Regional center staff interviewed claimant as part of his application for services. According to claimant, he started working when he was 18 years old; he worked at Masco (a manufacturing company); he worked as a power driver with waste management; he worked with his father in landscaping and maintenance; and he was a drafter and a laborer. Claimant stated that his last job was at a waste extraction facility, and that he worked there three years. He stated he was laid off due to his employer’s budgetary issues. Claimant is not currently employed. He does not receive Supplemental Security Income (SSI).

12. Claimant currently lives alone in a four-bedroom home owned by his parents. He has lived there for twenty years. Claimant’s mother takes care of all of claimant’s financial needs, although claimant uses an ATM card. Claimant takes public transportation, but he also can drive and has a driver’s license. He has incurred a number of tickets for speeding. Claimant can cook simple meals for himself. He uses the computer. During his intake interview, he advised staff at the regional center that he enjoyed riding motorcycles, fishing, and diving, and that he had received a diving certification.

### *Claimant's Mother*

13. Claimant's mother testified about her concern that claimant will not be able to care for himself when she and her husband are no longer able to care for him. Since childhood, claimant has repeated things under his breath and has a stutter. Claimant's mother did not think claimant was social or affectionate as a child. Claimant's father was very upset when claimant had to repeat kindergarten.

14. Claimant's mother disagreed with the employment history claimant gave to the regional center. According to claimant's mother, claimant has held many jobs, but seldom more than two months. The longest job he held was about one year in length when he worked for his father. Claimant's mother explained that she has to make sure he goes to his medical appointments; even when there is an emergency and he should go to a physician, he calls her first. She speaks with claimant up to three times each day. She pays all his bills. About eight years ago, claimant went to the wrong location and missed his brother's wedding. Claimant's mother believes claimant avoided it because he does not like being around a lot of people. She believes that claimant does not show good judgment. Sometimes his behavior and language challenges have been misconstrued by law enforcement, and she believes that his conviction for driving while under the influence of alcohol and his 5150 were examples of this.

15. About six years ago, a clinical psychologist acquaintance, who did not test claimant but knew him through the family, suggested to claimant's mother that claimant might have Asperger's. Claimant's mother is worried about what will happen to claimant if he is not found eligible for services.

### *Expert Testimony*

#### CLAIMANT'S EXPERT, MARIA FRAILEY, PH.D.

16. Maria Frailey, Ph.D., testified on behalf of claimant. She received her doctorate in clinical psychology in 1996 from the California School of Professional Psychology. She has a private practice and works with children and adults. Since 2001, Dr. Frailey has been a vendor for the regional center. She has conducted over 2,000 assessments of children and adults, evaluating them for developmental delays, learning disabilities, mood and psychiatric disorders, intellectual disabilities, and autism spectrum disorders. There are times when she refers her private clients to the regional center if she feels the client has a substantial disability that impacts the client's life. She believes claimant falls into that category.

17. Dr. Frailey met claimant about a year ago after his parents requested that she evaluate claimant to determine if claimant had an autistic spectrum disorder. Claimant called Dr. Frailey many times before they actually met. When they met, she found him polite, but "odd." She felt she had a better opportunity to get to know claimant than the regional center staff usually have during their assessments.

18. Dr. Frailey interviewed claimant and his mother and used various assessment tools to evaluate claimant. Based on her discussions with claimant's mother, Dr. Frailey concluded that claimant did not have any friends and had "no range of peer relationships." Dr. Frailey did not contact any of claimant's childhood friends to inquire about the nature of their relationship with claimant.

19. Dr. Frailey tested claimant using the Wechsler Adult Intelligence Scale. She concluded that claimant's full scale IQ of 86 was a valid estimate of his overall intelligence, but might represent an underestimate. Her assessment using the Vineland Adaptive Behavior Scale indicated that claimant had "low overall adaptive functioning," with skills ranging from low to moderately low. Dr. Frailey used the Gilliam Autism Rating Scale (GARS) to review claimant in the areas of social interaction, communication, and restricted, stereotypical behaviors. Claimant's score on that assessment was not indicative of autism.

20. When Dr. Frailey conducted an assessment using the Autism Diagnostic Observation Schedule (ADOS), however, she observed significant deficiencies. Claimant made limited eye contact with Dr. Frailey. He made faces; he grimaced, and at times he growled. Dr. Frailey felt there was an "odd" quality to his communication and that he made inappropriate comments, like "I talk in symbols." Claimant spoke about motorcycles in a manner that Dr. Frailey felt was unusual. She noted his language delay as a child. Dr. Frailey wrote a report stating that claimant's responses to the ADOS activities "indicated significant differences in social interaction and communication, as well as evidence of atypical patterns of interest." She concluded that claimant had autism.

21. In arriving at her diagnosis, Dr. Frailey relied on the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, also called the "DSM-IV-TR." Under the DSM-IV-TR, Autistic Disorder is found under Section 299 and requires identification of the following criteria<sup>2</sup>:

A total of six (or more) items from (1), (2), and (3), with at least two from (1), and one each from (2) and (3)

(1) Qualitative impairment in social interaction, as manifested by at least two of the following:

- a. Marked impairments in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body posture, and gestures to regulate social interaction

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<sup>2</sup> In 2013, the American Psychiatric Association issued a revised DSM, referred to as the "DSM V." Dr. Frailey evaluated claimant using the criteria in the DSM-IV-TR. There was no evidence offered nor argument made to suggest that utilization of the DSM V would have altered the result in this case.

- b. Failure to develop peer relationships appropriate to developmental level
- c. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people, (e.g., by a lack of showing, bringing, or pointing out objects of interest to other people)
- d. Lack of social or emotional reciprocity

(2) Qualitative impairments in communication as manifested by at least one of the following:

- a. Delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime)
- b. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others
- c. Stereotyped and repetitive use of language or idiosyncratic language
- d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level

(3) Restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least two of the following:

- a. Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus
- b. Apparently inflexible adherence to specific, nonfunctional routines or rituals
- c. Stereotyped and repetitive motor mannerisms (e.g. hand or finger flapping or twisting, or complex whole-body movements)
- d. Persistent preoccupation with parts of objects

22. Dr. Frailey explained that autism is a disability that appears at a young age and that people do not develop autism after age 18. She concluded that claimant must have been autistic as a child, even though she recognized there was little data to corroborate that. After speaking with claimant's father, Dr. Frailey concluded that claimant's family had likely dismissed his childhood symptoms and behaviors because acknowledging them would have been too "shameful" for his parents, particularly claimant's father.

23. Dr. Frailey discussed a voice mail message claimant left on her answering machine near the end of 2013, which was played during the hearing and received in evidence. Dr. Frailey believed it was indicative of claimant's significant disability and showed "restricted repetitive and stereotyped patterns of behavior, interests, and activities," as that phrase is used in the DSM-IV-TR section on autistic disorder. In the voice mail message, claimant began with something to the effect of "Hey Maria, I remember you asking me about whether I was having trouble sleeping. I am now." He stated that he gets up "after three hours," and "I got to eat a bunch of food," then I go back to sleep, and "I do it again." Claimant thanked Dr. Frailey for her "diagnosis" and for being "user-friendly." Claimant said "Merry Christmas to you and your family," and "Happy New Year." He asked Dr. Frailey to "please return the call" by calling his mother at the "other number," and he said he would "appreciate it." He ended the call by saying "bye."

24. According to Dr. Frailey, claimant is substantially disabled by his condition. She believes he has little capacity for independent living. He requires his parents' financial support for all his needs. His autism significantly limits his ability to be economically self-sufficient. He cannot adhere to a schedule. He has unusual thoughts. There may be psychiatric co-morbidities, and he may have a thought disorder. But in Dr. Frailey's opinion, claimant's impairments are the result of autism.

REGIONAL CENTER'S EXPERT, HARRY EISNER, PH.D.

25. Harry Eisner, Ph.D., was called to testify by the regional center. He has a master's degree and a doctorate in clinical psychology. In 1984, Dr. Eisner became licensed in California as a clinical psychologist. Dr. Eisner has served as a clinical psychologist at the regional center for 22 years, and he currently coordinates the regional center's provision of psychological services. Dr. Eisner supervises psychologists, reviews reports, and is regularly involved in evaluating eligibility for services and supports under the Lanterman Act. Dr. Eisner sits on the regional center's eligibility screening team, which reviews about 10 cases each week. Dr. Eisner has extensive experience diagnosing autism, and he has conducted thousands of evaluations.

26. In December 2013, Dr. Eisner conducted an evaluation of claimant to determine whether he was eligible for regional center services on the basis of a diagnosis of autism. He spoke with claimant, claimant's parents, and one of claimant's childhood friends with whom claimant has remained friends. Dr. Eisner reviewed documents provided by claimant's family, including Dr. Frailey's report, which concluded that claimant has autism. Dr. Eisner participated in an evaluation team that included a physician, a social worker, and

the director of intake from the regional center. The team concluded that respondent does not have autism and that he is not eligible for regional center services. After reaching that conclusion, Dr. Eisner had an additional opportunity to meet with claimant and his family. He spent another 90 minutes speaking with claimant and additional time with claimant's mother discussing her observations and her experiences with claimant throughout his life. After reconsidering his previous opinion, Dr. Eisner still concluded that claimant does not have autism.

27. In arriving at his opinion, Dr. Eisner considered autism under both the DSM IV-TR and the more recently revised DSM V. Both address autism as a condition that arises during a child's developmental stage. In the DSM IV-TR, it shows by age three; in DSM V, it presents in the "developmental period." Dr. Eisner characterized autism as including three defining attributes: atypical social behavior; atypical language development; and obsessive, sensory sensitivity, and emotional regulation. As an infant and toddler, claimant met most of his milestones without difficulty. While claimant showed a delay in language acquisition, he did not show the idiosyncrasies or atypical language development found in those with autism.

28. According to Dr. Eisner, when claimant was in grade school, special education was available and was provided to children who displayed developmental challenges or behaviors that warranted intervention. Schools noted when children showed some kind of developmental problem. A school or district staff member may not have called it autism in the 1970's or 1980's, but teachers or other educational professionals would have identified some problem requiring attention or intervention. They would have used descriptive information indicating that claimant showed some kind of unusual or problematic behavior, or other developmental issue. Retrospectively, that information could support a diagnosis of autism if such differences had actually been observed and documented. Here, there was no such observation conveyed by any educational professional. Dr. Eisner opined that it would be highly unusual for an autistic child in California to have reached the age of 18, as claimant would have been in 1982, without some educator or other professional recommending supportive services for the child. Dr. Eisner observed that claimant was not in a special education program and had never been referred for special education. Claimant was not as social as some children, but he had friends and played with other children. He did not require special adaptations or supervision and was in the general education program. Claimant's mother tried her best to recall if there were any special concerns raised in his childhood, and she could not. Other than claimant repeating kindergarten because of his language delay and "immaturity," he displayed few special needs. His mother, who volunteered in his classroom, reported that he "did what little boys do." According to Dr. Eisner, autistic children are significantly different. Unlike claimant, they cannot control their behavior on demand. All of this suggested to Dr. Eisner that, if claimant had difficulties or differences as a child, they could not have been substantial, as he was never given any special attention or intervention. In Dr. Eisner's opinion, claimant did not have autism as a child and thus does not have autism today.

29. Dr. Eisner also noted that when claimant was motivated to do so, he obtained his GED on his own. Claimant gave Dr. Eisner a lengthy work history and told him that the longest amount of time he ever held a job was over a year. Dr. Eisner observed that there could be many explanations for his short term employment; he could be, as claimant's father believed, a person who was not a dedicated employee; he could have poor future orientation and demonstrate poor judgment, but this did not mean he was or is autistic.

30. Dr. Eisner spoke with one of claimant's friends who had been claimant's friend since childhood. The friend offered insight into claimant as a child and adolescent. The friend referred to claimant as a "good guy" who was "shy." He acknowledged that claimant had a stutter but noted that it did not stop claimant from having friends. To Dr. Eisner, the friendship was reciprocal and not one based on pity or exploitation.

31. Claimant engaged in conversation with Dr. Eisner and made good eye contact with him during their meetings. Dr. Eisner considered claimant's language a little "quirky" but not "atypical," or impaired. Claimant's use of language was a little "odd" – he spoke of "smelling colors" and the "smell of death." Claimant did not make any strange gestures when he was with Dr. Eisner. Claimant did not repeat a topic over and over or obsess on any particular topic. Dr. Eisner noted that claimant had a 5150 hold in his history and there may be some mental health issues. He stated that those facts do not establish that respondent is autistic. Dr. Eisner listened to the recording of the telephone call Dr. Frailey relied upon during her testimony. Dr. Eisner characterized claimant's phone message as being disorganized and somewhat different from what he experienced with claimant, but it was not diagnostically "atypical." It did not strike him as indicative of autism.

32. Dr. Eisner concluded that claimant may have some disability, but it is not autism.

## LEGAL CONCLUSIONS

### *The Burden and Standard of Proof*

1. In a proceeding to determine whether an individual is eligible for services, the burden of proof is on the claimant to establish that he or she has a qualifying diagnosis. The standard of proof required is preponderance of the evidence. (Evid. Code, § 115.)

2. A preponderance of the evidence means that the evidence on one side outweighs or is more than the evidence on the other side, not necessarily in number of witnesses or quantity, but in its persuasive effect on those to whom it is addressed. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

*The Lanterman Act*

3. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act (the Act). (Welf. & Inst. Code, § 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. (Welf. & Inst. Code, §§ 4501, 4502; *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384.) The Act is a remedial statute; as such it must be interpreted broadly. (*California State Restaurant Association v. Whitlow* (1976) 58 Cal.App.3d 340, 347.)

4. An applicant is eligible for services under the Lanterman Act if he or she can establish that he or she has a developmental disability, which is defined as 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.” (Welf. & Inst. Code, § 4512, subd. (a).) The developmental disability must be attributable to mental retardation, cerebral palsy, epilepsy, autism, or what is referred to as the fifth category – a disabling condition closely related to mental retardation or requiring treatment similar to that required for mentally retarded individuals. (Welf. & Inst. Code, § 4512, subd. (a).)

5. California Code of Regulations, title 17, section 54000, also defines “developmental disability” and the nature of the disability that must be present before an individual is found eligible for regional center services. It states:

(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 as defined in the article.

(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 a need for treatment similar to that required for mental retardation.”

6. The term “substantial disability” is defined in Welfare and Institutions Code section 4512, subdivision (1) as being 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.
- (7) Economic self-sufficiency.

7. When an individual is found to have a developmental disability as defined under the Lanterman Act, the State of California, through the regional center, accepts responsibility for providing services to that person to support his or her integration into the mainstream life of the community. (Welf. & Inst. Code, § 4501.)

### *Evaluation*

8. For claimant to be eligible for services under the Lanterman Act, he must establish that he has a developmental disability specifically included in the Act’s definition of a “developmental disability.” Claimant claims he has autism. The weight of the evidence, however, did not establish that claimant has autism. Claimant did not meet his burden of establishing his eligibility for regional center services.

9. Both experts were well qualified to render an opinion in this case. Both agreed that autism is a developmental disability that originates in early childhood and that there was virtually no objective evidence to establish that claimant had autism as a child. Based on the totality of the evidence, the more reasonable opinion was that proffered by Dr. Eisner - that claimant does not have autism and that he did not have it as a child. As a child, claimant did not display the constellation of qualitative impairments found in children with autism. Claimant went through the public school system. Although claimant repeated kindergarten because of a language delay and what was seen as "immaturity," there was no evidence to establish he had autism as a child. If he had autism, a school or medical professional would have identified qualitative and stereotypical deficits that required some type of intervention, even if the professional did not then call them autism. But there were no such identification. Even though special education programs existed, claimant was in general education classes, and no professional ever recommended special education. Claimant readily modified his behavior when required to do so. He had friends. He was the class clown. He obtained a GED when motivated to do so.

10. As an adult, claimant does have adaptive functioning challenges. To a certain degree, claimant's psychologist appeared to rely on these deficiencies in arriving at her conclusion that claimant has autism. There are many reasons that are not developmental in nature that can cause an adult to display odd behaviors or have adaptation challenges. Merely having adaptive functioning deficits is insufficient to establish eligibility under the Lanterman Act.

11. The objective information relied upon by Dr. Frailey to establish that claimant has (and must have had) autism was insufficient. One example was the 2013 voicemail that claimant left for Dr. Frailey, which Dr. Frailey testified was indicative of claimant having autism. Claimant's message was somewhat disjointed but was not so inappropriate that it constituted evidence of a developmental disability under the Lanterman Act. Contrary to the assertions of Dr. Frailey and claimant's counsel that claimant's reference to Dr. Frailey being "user-friendly" indicated a disability, it was used in context and understood to mean that she was pleasant and helpful. Claimant's statements of "Merry Christmas to you and your family," and "Happy New Year," were both seasonally and socially appropriate. He asked Dr. Frailey to "please return the call" by calling his mother at the "other number," and he said he would "appreciate it." He ended the call by saying "bye." All of this was appropriate. Claimant's counsel argued that claimant spoke about a "blessed interface." Despite listening to the recording several times, the administrative law judge did not hear that phrase, but heard something to the effect that someone was "very blessed." The call was insufficient to establish that claimant has autism.

12. In order to be eligible for services, claimant had to have one of five qualifying developmental disabilities. (Welf. & Inst. Code, § 4512, subd. (a); Cal. Code Regs, tit.17, § 54000, subd. (b).) A preponderance of the evidence did not establish this.

13. The parties focused a great deal on the issue of substantial disability. That issue does not become a determining factor in this case unless claimant has autism. Claimant

failed to establish that core prerequisite for eligibility. Because claimant did not establish that he had an eligible developmental disability, the issue of *substantial disability* need not be reached in this decision.

14. Claimant's mother's concern for her adult child is understandable and heartfelt. Claimant may be eligible for other public services and supports, but based on the totality of the evidence provided in this case, he is not eligible for regional center services.

#### ORDER

Claimant's appeal from the service agency's determination that he is not eligible for regional center services and supports is denied.

DATED: February 10, 2014

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BETH FABER JACOBS  
Administrative Law Judge  
Office of Administrative Hearings

#### NOTICE

**This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within ninety days.**