



STATE OF NEW YORK
OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

44 HOLLAND AVENUE
ALBANY, NEW YORK 12229-0001
(518) 473-1997 • TDD (518) 474-3694
www.omr.state.ny.us

MEMORANDUM

TO: DDSO Directors
Central Office Leadership Team

FROM: Helene DeSanto

RE: Clarification of Provisions of the August 2001 Eligibility Advisory

DATE: December 13, 2002

OMRDD has received a number of requests from consumers, advocates, and providers to provide clarification regarding the Eligibility Guidelines that were distributed in August 2001. This memo provides clarification of operational aspects of the Guidelines.

Thank you in advance for your attention to this and the ongoing work of you and your staff related to eligibility determination.

This memo discusses concerns with respect to:

- Consistency in DDSO Implementation
- Central Office Role
- Notifications in the Course of Determinations
- Required and Discretionary Documentation
- Assuring Timely Determinations
- Further Clarification of Related Conditions

Consistency in DDSO Implementation of Eligibility Reviews

- DDSO directors remain responsible for the final determination of general eligibility.
- The three-step process has been restructured. In Step One an intake worker and intake coordinator; and if further review is needed, a licensed psychologist, and other staff are involved; in Step Two the DDSO director and a second licensed psychologist are involved, at a minimum. A third step will now be provided by NYCRO and the Upstate Regional Office. Step Two reviews will be completed by the DDSO for all negative determinations at Step One.
- Consumers and their advocates must be afforded the opportunity to request a third level review of a negative determination outcome at the second level.

Regional and Central Office Role in Eligibility Determination

- NYCRO and URO eligibility determination committees will be established. These committees will provide an additional level of review, following determination of ineligibility at the second step of the DDSO process. Referrals for review by these committees may be requested by a consumer, advocate, or referring voluntary agency and must be forwarded by the DDSO.

Notifications in the Course of Eligibility Determinations

- When a referral is made and documentation is incomplete, the DDSO is responsible for informing the referring party of any additional information that is required with respect to types of assessments or specialty assessments needed and why they are needed.
- When a negative determination is made, the DDSO is responsible for informing the referring party of the three-step process, and availability of the third level review following completion of the local process. When a negative determination is made the DDSO is responsible for providing the referring party with a list of the materials or reports that were reviewed in order to make the determination, and the reasons for denial based on criteria in MHL(1.03)(22).
- If application is made for a Medicaid service, as one aspect of a general application for eligibility determination, then a Notice of Decision must be issued, and processes available to applicants will include all aspects of the Medicaid fair hearing and due process.

Required Documentation and Discretionary Documentation

- The eligibility advisory lists adaptive behavior measures that are acceptable based upon their properties. This memo removes the AAMR Adaptive Behavior Scales - Residential and Community 2, adult scales from this list. People already determined to be eligible, using this scale, should not be redetermined.
- Each manual for each adaptive behavior scale contains required criteria for personnel who may complete the scale, conduct interviews to collect the necessary information, and score the scale. DDSOs should accept adaptive behavior scales administered only in the manner, and only by qualified interviewers or raters, required by the criteria stated for those scales in the respective manual. A DDSO psychologist should be involved in review of this information at the second step review to confirm that these criteria have been met and measures have been completed properly.
- Some DDSOs have advised consumers that use of one or another specific adaptive behavior scale is required to document substantial handicap. The intent of the eligibility advisory is to permit use of any of the listed adaptive behavior scales for determination purposes. Adaptive behavior scales should be completed in a manner that accurately reflects typical behavior, as specified in the respective manuals, rather than optimal skills under optimal circumstances.
- Some DDSOs have been very comprehensive in their requirements for referral materials. It is reasonable to request a social history or documentation of onset, an intellectual and adaptive behavior assessment, and available medical reports for review at the first step. DDSO staff should request other materials from the referring party only if more information is required.
- A notification summary is attached, titled "Important Facts: Eligibility for OMRDD Services." When consumers or advocates request a determination, a copy of this summary should be provided to them, together with any additional information the DDSO wishes to provide.

Assuring that Determinations are Made in a Timely Manner

The following operational guidelines should be followed by DDSOs:

- **Step One Determination:** Once a complete referral documentation packet is received, the DDSO should make a decision within 30 days. If found eligible, the DDSO should notify the referring party. If not found eligible at Step One, a referral must be made to Step Two.
- **Step Two Determination:** If needed, those involved in the Step Two review can ask for additional documentation. Once a complete referral packet (including any newly requested information) is received, the DDSO should make a decision within 14 days. If found eligible, the DDSO should notify the referring party. If found ineligible, the DDSO must provide the referring party with a list of materials or reports that were reviewed and the reasons for denial. In addition, if found ineligible, the availability of a third step review must be made known to referring party.
- **Step Three Determination:** Upon the receipt of complete referral documentation from the DDSO, the NYCRO or URO review committee will have 30 days to determine eligibility and notify the DDSO of its finding. The DDSO will then have 10 days to notify the referring party.

Further Clarification of Related or Similar Conditions

- Related conditions include presence of neurological impairment or degeneration as a result of a disease or disorder, such as muscular dystrophy (MD), which has pathologic vectors affecting the integrity of both musculature and the central nervous system, should be included as an eligible type of condition, even though MD may be manifested primarily in the form of impaired motor function.
- OMRDD has examined the relationship between this definition of "similar conditions" and the consequences of central nervous system disorders with respect to effects upon individual intellectual or adaptive functioning and resulting service needs, and has concluded that the present requirement of central nervous system disorder is an appropriate and reasonable approach for defining similar conditions.