



STATE OF NEW YORK  
**OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES**

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**MEMORANDUM**

**TO:** Central Office Leadership Team  
DDSO Directors  
DDSO Psychology Discipline Coordinators  
Executive Directors of Provider Agencies  
Executive Directors of Statewide Associations  
Commissioner's Advisory Council Members

**FROM:** Thomas A. Maul  
Commissioner

**DATE:** August 10, 2001

**RE:** OMRDD Advisory Guideline--Determining Eligibility for Services: Substantial Handicap and Developmental Disability

The attached advisory guideline addresses issues in determining eligibility for OMRDD services, regardless of whether these services are provided by OMRDD or by not-for-profit organizations. In particular, the advisory addresses the core concerns of how both substantial handicap and presence of developmental disability may be confirmed.

New York's developmental services system is one of the largest in the nation. It is also one of the few statewide systems in which determinations of eligibility are made at a district or regional level. Consequently, it is important that OMRDD be able to assure that determinations are made in a fair, equitable, and consistent manner across the state. These issues are addressed by the provisions in the advisory. The advisory was developed through review of current and typical practices across OMRDD's districts and regions, review and comment by DDSO Directors and Psychology Discipline Coordinators, and consensus among key OMRDD clinicians with responsibility for rendering determinations of eligibility across the state.

The advisory addressees a wide range of key concerns, which include:

1. Professional principles with respect to conditions other than mental retardation, the need for complete clinical information, the need for qualified assessors, the need to use prevailing diagnostic classifications, and the need to establish review procedures for decisions.
2. The use of adaptive behavior as a benchmark to establish functional limitations consistent with substantial handicap, assessment practices with respect to intellectual functioning and adaptive behavior, and the appropriateness of various psychometric assessment measures.
3. The establishment of substantial handicap among children and provisions for "provisional" eligibility for some children under selected circumstances, with an upper age limit of eight years for "provisional" eligibility.
4. Recommended DDSO processes, organized into several steps, for determining eligibility, and maintenance of records of assessments that contributed to eligibility determination decisions.
5. Illustration of issues, concerns, and diagnostic circumstances that may prompt second or third step reviews within recommended DDSO processes.

It is important to recognize that it is not intended that any provisions of this guideline be applied in any manner that diminishes responsible and responsive clinical practice. For example, as long as the required information can be obtained from an adaptive behavior measure, clinicians may choose to use different adaptive behavior measures to assess people with different characteristics, due to the greater clinical appropriateness of some measures for assessment with some individuals and not others. The primary intent of this advisory is to ensure consistency in local processes of decision making about eligibility and to promote the availability of clinical information sufficient in breadth and depth to permit fair, equitable, and suitably informed decisions to be made. It is also important to note that only authorized DDSO staff may determine eligibility for OMRDD services, regardless of what agency, provider, or practitioner will render the services.

The guidelines were developed by the Bureau of Planning and Service Design (BPSD). Inquiries regarding this advisory should be directed to Dr. Jill Pettinger, Chief Psychologist, Upstate Regional Office at (518-474-8652 or [jill.pettinger@omr.state.ny.us](mailto:jill.pettinger@omr.state.ny.us)).