

ELIGIBILITY FOR OPWDD SERVICES

Important Facts - August 17, 2012

(replaces August 2010 version)

OPWDD, through its local Developmental Disabilities Regional Offices (DDRO), determines whether a person has a developmental disability and is eligible for OPWDD-funded services. This fact sheet describes the Three-Step process and the type of information OPWDD needs to make an eligibility determination of developmental disability.

NOTE: A determination of developmental disability does not mean that the person is eligible for all OPWDD-funded services. Some OPWDD-funded services have additional eligibility criteria. For example, ICFs and HCBS waiver programs include an additional level-of-care determination, and individuals are eligible for HCBS services only when they reside in appropriate living settings. These and other, additional eligibility criteria for specific OPWDD services are not reviewed through this process.

ELIGIBILITY DETERMINATION PROCESS

Eligibility Request

An OPWDD Transmittal Form *must* accompany all requests submitted to the DDRO for eligibility determinations. The Transmittal Form includes the person's legal name, the name of the person's representative, and relevant contact information. Documentation (records) of the person's developmental disability, as described on page 2 of this fact sheet, must also be included as part of the eligibility request.

1st Step Review

DDRO staff review the eligibility request for completeness and share the information with other staff designated by the Director, as necessary. After this review, the DDRO notifies the person in writing that:

- (a) Eligibility or provisional eligibility has been determined; or
- (b) The request is incomplete and requires additional documentation; or
- (c) The request has been forwarded for a 2nd Step Review.

2nd Step Review

DDRO clinicians designated by the DDRO Director conduct a 2nd Step Review of the eligibility request forwarded by the 1st Step Review, and any additional documentation provided by the person since the 1st Step Review. If these clinicians require additional medical information, reports of psychological test results, or historical documentation, the person is notified in writing of the type of information needed, and the date by which it must be submitted to the DDRO.

Following the 2nd Step Review, the DDRO provides the person with a written notification of its determination. If the person is found ineligible for OPWDD services because he or she does not have (meet requirements for) a developmental disability, the letter offers the person and his or her representative the opportunity to:

- (a) Meet with DDRO staff to discuss the determination and documentation reviewed; and
- (b) Request a 3rd Step Review; and
- (c) Request a Medicaid Fair Hearing in cases where Medicaid-funded services are sought.

The person may choose one, two or all three of the above options. If a Fair Hearing is requested, a 3rd Step Review will be conducted automatically.

Note that a Notice of Decision informing the person of his or her right to request a Medicaid Fair Hearing is sent only when the Transmittal Form indicates that the person is interested in receiving Medicaid-funded OPWDD services if determined eligible. If the person has not sought Medicaid-funded services, no Fair Hearing is offered, and the decision of the DDRO is final.

3rd Step Review

Eligibility Review Committees for the Upstate DDROs and NYC DDROs conduct 3rd Step Reviews. Committee members include licensed practitioners who are not directly involved in the determinations made at the 1st and 2nd Step Reviews. The Committee members review the submitted eligibility request and any additional documentation provided by or on behalf of the person. The Committee forwards its recommendations to the DDRO 2nd Step Review coordinator. The DDRO Director or designated staff person considers the 3rd Step recommendations and informs the person of any change in the DDRO's determination.

3rd Step reviews will be made prior to any Fair Hearing date.

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REQUIRED AND ADDITIONAL DOCUMENTS NEEDED

The DDRO will need the following information, in most cases, to determine whether someone is eligible for OPWDD services:

- A medical or specialty report (for example, a neurological report), including health status and diagnostic findings, to support a qualifying diagnosis other than mental retardation. For persons qualifying with intellectual disability only, a recent general medical report, if available.
- A psychological report which includes assessment of intellectual functioning, with reporting of all summary intelligence scores (subscale, Index, part, and full scale scores) and, *for people with IQs above 60*, standardized assessment of adaptive behavior with reporting of scale/domain and summary scores. *For people with IQ's below 60*, adaptive assessment may be based on a qualitative review via interview with care-providers, review of records, and direct observations.
- A social/developmental history, psychosocial report, or other background report that shows that the person became disabled before age 22 years (this background information is still needed if the person is a child or adolescent).

In some cases, the DDRO will not be able to decide whether someone is eligible based on the information in reports that are provided initially. In those cases, the DDRO may request additional information/different reports or further evaluation, and will either recommend where such assessments may be done, or arrange for them to be done.

Acceptable Measures of Intellectual and Adaptive Behavior

Any of the following measures of intellectual functioning are accepted*:

- Kaufman series of intellectual assessments
- Leiter International Performance Scale
- The Stanford-Binet Scales
- The Wechsler series of Intelligence Scales

*Other intelligence tests are acceptable if they are comprehensive, structured, standardized, and have up-to-date general population norms

- Brief or partial administration of comprehensive intellectual measures may be utilized only in circumstances where standardized administration is *impossible*
- Abbreviated measures of intelligence (e.g. WASI or KBIT) alone are not acceptable
- Language-free instruments (e.g., the Leiter or CTONI), in combination with the Performance items of a comprehensive IQ test, will be considered for individuals who are non-English speaking, deaf, or nonverbal
- Intellectual measures standardized in English that have been administered by an examiner's translation into another language are not acceptable for eligibility determinations

Any of the following measures of adaptive behavior are accepted for current evaluations* :

- Adaptive Behavior Assessment System
- Vineland Adaptive Behavior Scales
- Scales of Independent Behavior (Motor Skills Domain only)
- Other adaptive behavior measures are acceptable if they are comprehensive, structured, standardized, and have up-to-date general population norms. Results from other adaptive behavior measures not included in this list may also be used to establish a past history of adaptive deficits during the developmental period (i.e., AAMR Adaptive Behavior Scale; Comprehensive Test of Adaptive Behavior; Scales of Independent Behavior)

Adaptive behavior measures should be completed to reflect the person's **typical** behavior, not their best behavior under optimal circumstances, or only with assistance.

Adaptive behavior measures should be completed and scored by professionals trained in their use, according to professional standards established for each scale in its respective manual.

***Updated or current evaluations of intellectual functioning and adaptive behavior must be based upon the most recent version of the particular instrument used. Please refer to the memos of October 17, 2008 and April 26, 2010 available on OPWDDs website at http://www.opwdd.ny.gov/opwdd_services_supports/eligibility for more information.**