



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: ELIGIBILITY EXPIRATIONS AND REVIEWS POLICY 11.03

Authority: RCW 71A.16.040(3) *Determination of Eligibility*
WAC 388-823-1005 through 1090 *Applying for a Determination of a
Developmental Disability*

PURPOSE

This policy establishes a consistent process for completing eligibility re-determinations and reviews in compliance with Chapter 388-823 WAC.

SCOPE

This policy applies to Division of Developmental Disabilities (DDD) Intake and Eligibility (IE) staff.

POLICY

DDD will provide timely notice and determinations to clients/families whose eligibility are subject to expiration and reviews, and will not require review of adults receiving DDD paid services as defined in WAC 388-823-1010.

- A. Eligibility expiration requires a reapplication for an eligibility determination and occurs at the following times:
 - 1. On the 4th birthday for all children;
 - 2. On the 10th birthday for children eligible under Down syndrome, developmental delay, Medically Intensive Children's Program (MICP), or "too severe to be assessed."

- B. Eligibility reviews do not require a reapplication and can occur at the following times:

1. At any time for persons age 10 or older determined eligible under Down syndrome or developmental delay prior to July 2005;
2. At age 17 and before the 18th birthday for all disability conditions;
3. For Medically Intensive Children's Program (MICP) children, prior to the 18th birthday or when no longer eligible for MICP;
4. Prior to initiation of paid services if:
 - a. Age 4 through 17 and eligible before July 2005 under developmental delay or Down syndrome; or
 - b. Age 18 or older and the person's eligibility determination is more than 24 months old.
5. At any time, if evidence used to determine eligibility was insufficient, in error, or fraudulent per the rules in place at the time of the decision (1992 or later); and
6. At any time, if new diagnostic information becomes available and does not support the person's current eligibility per the rules in place at the time of the decision and the person is under the age of eighteen (18).

PROCEDURES

A. Expiration of Eligibility for Children Age 4 and 10 Years

1. Expiration/reapplication notices will be mailed to the eligible child and parent/legal representative during the month of the 3rd and 9th birthday and six (6) months before the 4th and 10th birthday and recorded in the Service Episode Record (SER).
 - a. Include a postage paid, addressed return envelope and the following enclosures:
 - 1) *Request for DDD Eligibility Determination* (DSHS 14-151);
 - 2) *Notification of Age Four (4) Eligibility Expiration* (DSHS 10-377) or *Notification of Age Ten (10) Eligibility Expiration* (DSHS 10-378) with instructions, contact name, phone number and email address;
 - 3) *Consent* (DSHS 14-012);

- 4) *Notice of Privacy Practices for Client Confidential Information* (DSHS 03-387);
 - 5) *Who, What, Where, How: DDD Services and Supports* (DSHS 22-722);
 - 6) *Estate Recovery Fact Sheet* (DSHS 14-454) and *Estate Recovery for Medical Services Covered by the State*, from Columbia Legal Services; and
 - 7) *Eligible Conditions Specific to Age and Type of Evidence* (DSHS 14-459).
- b. Copy the case resource manager (CRM) regarding any notice for the client file.
 - c. Do not open the Comprehensive Assessment and Reporting Evaluation (CARE) Intake/Eligibility (IE) application until a signed *Request for Eligibility Determination* (DSHS 14-151) is received.
 - 1) Use the receipt date of the signed application for both “date application mailed” and “date received.”
 - 2) HIPAA date is the date *Notice of Privacy Practices for Client Confidential Information* (DSHS 03-387) is mailed.
2. If no reapplication is received, send notice of expiration on *DDD Eligibility Planned Action Notice*, per WAC 388-825-145, 35 or more calendar days before the 4th or 10th birthday.
 - a. Before sending the *DDD Eligibility Planned Action Notice*, IE staff will attempt to call and talk with the family/legal representative to explain the termination and requirement for reapplication;
 - b. Record all contacts and correspondence in the SER with Intake/Eligibility (DDD) Purpose codes; and
 - c. Copy the CRM regarding any notice for the client file.
 3. Expiration of eligibility takes effect on the 4th and 10th birthday if there is no completed decision of eligibility.

The CRM must:

- a. Terminate payment authorizations effective no later than the eligibility expiration date.
 - b. Inactivate the client eligibility in CARE.
 - c. If eligibility expires, close the client in CARE. If eligibility is re-determined after the expiration date, the new eligibility date is the date of receipt of the last document received for eligibility re-determination.
4. If re-determination at age 3 results in an ineligible decision, eligibility termination is effective immediately.
 5. If re-determination at age 9 results in an ineligible decision, eligibility termination is effective on the 10th birthday.

B. Review of Eligibility Prior to the 18th Birthday

1. At age 17, all eligible clients are reviewed to ensure eligibility under Chapter 388-823 WAC unless eligibility was initially determined at age 17.
 - a. If there is sufficient information in the client file to re-determine eligibility, new information is not required.
 - b. Failure to return the consent form restricts DDD staff to the information available in the file for making a re-determination of eligibility.
 - c. Eligibility review decisions will be made effective by the 18th birthday unless new evidence is expected based on information entered into the CARE IE screens and the SER.
2. Send the *Notification of Eligibility Review* (DSHS 10-301) to the child and the parent/legal representative, enclosing a postage paid, addressed return envelope and the following:
 - a. *Notification of Eligibility Review* (DSHS 10-301);
 - b. *Consent* (DSHS 14-012);
 - c. *Eligible Conditions Specific to Age and Type of Evidence* (DSHS 14-459);
 - d. *Notice of Privacy Practices for Client Confidential Information* (DSHS 03-387);

- e. *Estate Recovery Fact Sheet* (DSHS 14-454) and the *Estate Recovery for Medical Services Covered by the State* from Columbia Legal Services;
 - f. *Who, What, Where, How? DDD Supports and Services* (DSHS 22-722); and
 - g. *Voter Registration Service* (DSHS 02-541).
3. The IE staff must:
- a. Create the pending determination and record in the CARE SER with Intake/Eligibility (DDD) Purpose codes:
 - 1) *Date Notification of Eligibility Review* (DSHS 10-301) is mailed;
 - 2) Date that *Consent* (DSHS 14-012) is received; and
 - 3) HIPAA date is the date *Notice of Privacy Practices for Client Confidential Information* (DSHS 03-387) is mailed.
 - b. Copy the CRM regarding any notice for the client file.
- C. Review of Eligibility for Adults
- 1. When any other eligibility review is required, follow step 2 in the procedures outlined for the 18 year old reviews.
 - 2. Regions will have a written procedure for identifying and referring clients for eligibility reviews.
 - 3. Review of clients age 18 or older is required prior to initiation of paid services only when the following apply:
 - a. The current eligibility determination is more than 24 months old; and
 - b. The person is not currently receiving a paid DDD service as defined in WAC 388-823-1015 and requests a paid service.
- D. Authorizing Paid Services
- Paid services may be authorized prior to the completion of an eligibility review only if one of the following criteria applies:

1. Categorically Needy (CN) Medicaid clients currently in eligibility review status who are receiving Medicaid Personal Care (MPC), Private Duty Nursing (PDN), or Adult Day Health (ADH):
 - a. Continue MPC payments on a month-to-month basis during the eligibility review and appeal per WAC 388-825-145.
 - b. If the client is determined no longer to meet DDD eligibility, transfer CARE to the Home and Community Services Division or the Specialized Unit for MPC (S-UM).
2. CN Medicaid clients in eligibility review status who are requesting MPC, PDN, or ADH and require an eligibility review:
 - a. Open the eligibility review and assign to a paid services CRM to complete the CARE assessment. Do not transfer the case to paid services until the eligibility review is completed.
 - b. Payments for state plan services can be initiated before the eligibility review is completed, but are authorized on a month-to-month basis until eligibility is determined.
 - c. Transfer to a paid service CRM once eligibility has been determined. If eligibility is denied and appealed, the case remains with a No Paid Services CRM until the final appeal decision is rendered.
3. Initiating paid services for other clients prior to completion of a required eligibility review or re-determination requires an Exception to Rule (ETR) if:
 - a. The paid services are required to meet a critical health and safety need; and
 - b. The eligibility review is initiated before paid services are authorized.
4. The Regional Administrator or designee may approve an ETR to WAC 388-823-1010 for a maximum of sixty (60) days as follows:

The CRM shall:

 - a. Complete the *Rule Exception Request* (DSHS 05-010) and submit it to the RA for approval; and

- b. Initiate the end dates of an award letter or Social Service Payment System (SSPS) authorization. The end dates cannot exceed the expiration birthday or termination date.

E. Case Transfers During the Reapplication or Review Period

1. If a client/family moves to another region and is not yet known to the other region, the originating region will:
 - a. Send the notice of expiration or review to the forwarding address, if known. When the client/family responds, inform them that the file will be transferred to the new region.
 - b. If there is no forwarding address or the notice is returned as undeliverable, the case is closed in CARE.
 - c. Notify the new region that the file is being transferred to them.
 - d. The new region will complete the eligibility determination.
2. If there is no response to the notice request for the case transfer after thirty (30) days, the originating region:
 - a. Follows up with the new region to confirm no contact, calls the client/family; and
 - b. Depending on the outcome of the client/family contact, terminates DDD eligibility or transfers the case.
3. If the client/family contacts DDD for an eligibility review or reapplication, refer them to the region they are living in and transfer the records to that region.

F. Special Populations

1. **Allen/Marr Class Members**
 - a. Before initiating an eligibility review on an Allen/Marr Class Member, DDD staff will review and comply with DDD Policy 5.02, *Necessary Supplement Accommodation (NSA)*, Procedures, Section B.
 - b. IE staff will determine if an eligibility review is required. If a review is required, IE staff will coordinate with the regional DDD Mental Health CRM.

- c. When the class member is residing at either Eastern State Hospital (ESH) or Western State Hospital (WSH), follow the additional required procedures set forth in Attachment B of this policy.

2. **Adults in Department of Corrections (DOC) Custody**

- a. DDD will not automatically terminate clients who are sentenced to DOC correctional facilities. The CRM will update the Residence screen in CARE with the client's DOC status.
- b. Voluntary termination from DDD: If a client requests to terminate his/her DDD eligibility, DDD will request that the client or his/her legal representative and a witness sign a discharge request letter that explains the consequences of terminating DDD eligibility.
- c. Eligibility Reviews: Eligibility reviews will be completed no later than ninety (90) days prior to the expected release date and initiation of paid DDD services. If an ICAP is required, a qualified respondent must be available.
- d. Eligibility Termination Notification: If a client in DOC custody is determined to be ineligible for DDD, notify the Central Office DOC Liaison.

G. Meeting Compliance Timelines

1. IE staff must initiate required reapplication and reviews twelve (12) months before the 4th, 10th, and 18th birthdays and before initial authorization of paid services per WAC 388-823-1010(3).
2. Reports will be available through CARE IE to assist regions in tracking children turning ages 3, 9, and 17; and turning 3-½, 9-½, and 17-½, ninety (90) days prior to the 4th, 10th, and 18th birthdays.
3. Clients with no paid services (NPS) are designated by CRM assignment.

H. Termination Process

1. DDD will initiate termination of eligibility per WAC 388-125-145 before the 4th, 10th, or 18th birthday when:
 - a. The individual/family fails to return the signed application or consent form; or

- b. The individual/family has missed two appointments for an ICAP or has failed to respond to at least two department attempts to schedule an ICAP;
or
 - c. There is insufficient evidence to determine eligibility and no additional evidence is expected.
 2. IE staff will document all activity in the CARE IE screens and the SER.
 3. If an appeal of an eligibility denial/termination is filed by the required date on *DDD Eligibility Planned Action Notice*, eligibility and paid services will continue until the final decision.
- I. Discharge/Move to History
 1. When a client establishes residency in another state or is voluntarily discharged, move the IE determination to history, terminate all open service authorizations, and inactivate the CARE record.
 - a. Send the *DDD Eligibility Planned Action Notice* to the client per notification procedures.
 - b. If an appeal is filed, continue eligibility during the appeal. Do not continue paid services during appeal when someone is no longer a Washington State resident.
 2. When a client dies, move the IE determination to history, terminate all open service authorizations, and inactivate the client.
 - a. Terminate the CARE record after ninety (90) days.
 - b. CARE information can be retrieved from a terminated record by Central Office staff.
 3. If a DDD notice is returned as undeliverable and the client/legal representative cannot be located:
 - a. Document the mail return and attempts to contact in the SER;
 - b. Move the IE determination to history;
 - c. Terminate all open program records and service authorizations; and
 - d. Inactivate the CARE record.

J. Termination/Denial Notification Procedures

1. Contact each client/family by phone prior to mailing the letter to explain the eligibility termination/denial and appeal rights. If the number has been disconnected or changed, document attempts in the SER.
2. Send the *DDD Eligibility Planned Action Notice* by regular mail to the client and his/her parent or legal representative per WAC 388-825-100 as follows:
 - a. Include a request for appeal form stamped with the DDD office name and address to ensure that the hearing information is distributed correctly.
 - b. For children living in the same household as their parent or legal representative, send the notice in one envelope.
 - c. If the child is in the legal custody of DSHS through a dependency court order, send the notice to the Child Welfare System (CWS) worker, not to the parent.
3. If the *DDD Eligibility Planned Action Notice* is returned due to an incorrect mailing address, document in the SER all reasonable efforts to locate the client/family (e.g., calling the paid provider, ACES, client registry, phone book, other listed significant others).
4. Notify the client's CRM of eligibility termination date.
 - a. The CRM must close all SSPS and county service authorizations effective the termination date.
 - b. If the client is receiving benefits in ACES, notify the Community Service Office (CSO) of termination of eligibility.
 - c. Notify Health and Recovery Services Administration (HRSA) via email of a current client's DDD eligibility termination to update the Medicaid information.
5. Allen/Marr class members: Whether the client is a state hospital patient or is residing in the community, send copies of the termination/denial *DDD Eligibility Planned Action Notice* to:
 - a. The legal representative, or if no legal representative, then a relative;
 - b. The DDD Mental Health Program Manager;

- c. The regional Mental Health CRM; and
- d. Disability Rights Washington (DRW).

K. Appeal Rights

- 1. There are no appeal rights to denial or expiration of eligibility.
 - a. Services continue during the appeal only if it is a decision of termination and the appeal is filed on time.
 - b. There is no appeal to paid services per ETR, but any ETR that was in place at the time of the decision continues during the appeal.
 - c. Expiration of eligibility is effective on the 4th or 10th birthday, even if an appeal is filed. Paid services do NOT continue past the expiration date, regardless of the appeal status.

L. Regional Responsibilities

- 1. Determine IE staff responsibilities that will enable compliance with the expiration and review requirements.
- 2. The regional Mental Health CRMs will distribute the list of Allen/Marr class members to IE staff on a monthly basis.
- 3. CRMs or supervisors who perform eligibility determinations or administer ICAPs must attend required training before performing IE tasks.
- 4. Track eligibility data in the CARE application.
- 5. The “next review” date is the expiration or review date generated by the CARE application (i.e., 4th, 10th, or 18th birthday).
- 6. With the termination of DDD eligibility, assure that DDD payment authorizations, waiver eligibility, and waiver-related Medicaid documents are simultaneously closed or terminated.
- 7. Provide quality control and oversight regarding eligibility decisions, compliance with review timelines, termination of payments and waiver eligibility simultaneous with termination of DDD eligibility, and proper notification of appeal rights.

8. Develop regional procedures addressing eligibility reviews and staff responsibilities, staff training, and quality assurance of the process.
9. Comply with DDD Policy 11.01, *Eligibility Determination*, regarding regional quality control responsibilities for eligibility.

M. Quality Control and Compliance (QCC) Coordinator Responsibilities

The assigned QCC Coordinator will assist the region with:

1. Developing regional plans and strategies to ensure compliance and statewide consistency;
2. Eligibility policy and procedures; and
3. Monitoring of regional ETRs to initiate paid services prior to completion of the eligibility review.

EXCEPTIONS

Any exceptions to this policy must have the prior written approval of the Division Director.

SUPERSESION:

DDD Policy 11.03
Issued May 1, 2009

Approved: /s/ Linda Rolfe Date: June 1, 2009
Director, Division of Developmental Disabilities

Attachment A: *Eligibility Expiration and Review Requirements*
Attachment B: *Procedures for Eligibility Re-Determination of Allen or Marr Class Members Residing at State Hospitals*

ATTACHMENT A
ELIGIBILITY EXPIRATION AND REVIEW REQUIREMENTS
WAC 388-823

AGE	ELIGIBILITY CONDITIONS	EXPIRATION	REVIEW	ADDITIONAL CRITERIA
Regardless of date of eligibility determination				
4th birthday	ALL	X		
10th birthday	Developmental Delay Down Syndrome “Too severe to be assessed” Medically Intensive Children’s Program	X		
18th birthday	Medically Intensive Children’s Program	X		This eligibility condition is limited to children under the age of 18.
Age 17 - 18	ALL		X	Review begins at age 17 with termination no sooner than 18th birthday
18 yrs old or older	ALL		X	Prior to initial authorization of paid services if most current eligibility determination is more than 2 yrs. old, <u>and</u> you are not receiving paid DDD services
At any age	ALL		X	Evidence was insufficient, in error, or fraudulent or if new information becomes available.
At any age	Medically Intensive Children’s Program		X	No longer eligible for continuous nursing through MIP.
Eligibility determined before July 2005				
Age 4 through 17	Developmental Delay Down Syndrome		X	Prior to initiation of paid services if you are not receiving paid services
10th birthday	Down Syndrome Developmental Delay Medically Intensive Children’s Program	X		Ages 4 through 9
Age 10 or older	Developmental Delay Down Syndrome		X	Can be reviewed at any time

ATTACHMENT B

PROCEDURES FOR ELIGIBILITY RE-DETERMINATION OF ALLEN OR MARR CLASS MEMBERS RESIDING AT STATE HOSPITALS

- A. The DDD Mental Health CRM or his/her designee will notify the following people via email or fax that DDD will be reviewing a class member's eligibility prior to taking further action:
1. The DDD Mental Health Program Manager;
 2. The ESH or WSH Habilitative Mental Health (HMH) Social Worker; and
 3. The ESH or WSH HMH Program Manager.
- B. The DDD Mental Health CRM will coordinate with the ESH or WSH HMH Social Worker and the ESH or WSH HMH Program Manager in advance of any mailed notifications.
- C. The DDD Mental Health CRM and the ESH or WSH HMH Social Worker, and the client's legal representative(s), if available, will meet with the class member in person to notify the class member verbally and in writing using *Notification of Eligibility Review* (DSHS 10-301) of DDD's intent to review the class member's eligibility.
1. This activity will be documented in the class member's hospital and DDD records.
 2. DDD will provide a copy of *Notification of Eligibility Review* (DSHS 10-301) to the ESH or WSH HMH Social Worker.
 3. DDD will send a copy of the *Notification of Eligibility Review* (DSHS 10-301) to:
 - a. The legal representative(s) or if no legal representative, then to another relative;
 - b. The DDD Mental Health Program Manager; and
 - c. Disability Rights Washington (DRW).
- D. The DDD Mental Health CRM will be available to meet with the HMH treatment team, along with the RSN/MH liaison staff, to address any treatment concerns or considerations this eligibility re-determination may present.

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- E. If the eligibility review determines the client to be ineligible, the DDD Mental Health CRM will:
1. Notify the ESH or WSH HMH Social Worker and the ESH or WSH HMH Program Manager of the decision; and
 2. Meet with the class member in person to notify the class member verbally and in writing using the *DDD Eligibility Planned Action Notice*.
- F. DDD will mail the *DDD Eligibility Planned Action Notice* to:
1. The legal representative(s) or if no legal representative, then to another relative;
 2. The ESH or WSH HMH Social Worker;
 3. The DDD Mental Health Program Manager; and
 4. Disability Rights Washington (DRW).
- G. The class member has ninety (90) days from receipt of the termination notice to appeal DDD's decision. The class member may appeal the decision by completing *Request for Hearing* enclosed with the *DDD Eligibility Planned Action Notice*.
1. Eligibility continues beyond the stated termination date if the appeal is filed by the date entered in the *DDD Eligibility Planned Action Notice*.
 2. If the client or his/her legal representative appeals the decision, eligibility is continued until the completion of the Department's appeal process, but no paid DDD services will be authorized until there is a final decision on the appeal from the Office of Administrative Hearings or Board of Appeals.
 3. If no appeal is filed, DDD eligibility termination becomes effective per the date entered on the *DDD Eligibility Planned Action Notice*.
 4. DDD eligibility will not be continued during the client appeal through Superior Court, absent a Superior Court order staying the termination of eligibility pending judicial review.
 5. It is the responsibility of the ESH or WSH HMH Social Worker to contact the Office of Assigned Counsel (OAC) to ensure that an attorney will be appointed to assist the class member with his/her appeal process.
 6. The DDD Mental Health CRM will continue to participate in treatment planning through the Department's appeal process, which ends with the Board of Appeals' decision.

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7. If the Department's denial of eligibility is upheld by the Board of Appeals, DDD will continue the client's eligibility for a maximum of ten (10) days.
8. Ten (10) days after receipt of the BOA decision, DDD will terminate the client's DDD eligibility unless there is a Superior Court order to maintain eligibility until the Superior Court decision is rendered.
9. If the class member is no longer eligible for DDD services, the DDD Mental Health CRM will work with the state hospital treatment team, along with the appropriate RSN/MH liaison staff, to identify any treatment and transition issues. The CRM will assist in transition to other appropriate resources as needed and document these efforts in the client's SER.
10. If the Superior Court reverses DDD's decision, the client's eligibility will be reinstated.

H. Eligibility Rules Applicable to Persons in Psychiatric Facilities

1. Follow WAC 388-823-0420(2):

“If DDD is unable to determine that your current adaptive functioning impairment is the result of your developmental disability because you have an unrelated injury or illness that is impairing your current adaptive functioning:

- (a) *DDD will not accept the results of a VABS or SIB-R administered after that event and will not administer the ICAP; and*
- (b) *Your eligibility will have to be determined under a different condition that does not require evidence of adaptive functioning per a VABS, SIB-R or ICAP.”*

2. If a Full Scale IQ is required as evidence of eligibility, refer to WAC 388-823-0215 and 0230.

I. Client Requests to Terminate

When a client requests to terminate DDD services voluntarily while residing in a state hospital, DDD will acknowledge the request in writing using DSHS 10-312, *Response to Disenroll from DDD*, and send copies of the notice to DRW and the regional DDD Mental Health CRM.

1. When the client is determined by the treating psychiatrist to be psychiatrically stable, DDD will review the class member's request with the class member. DDD will notify DRW in advance of this meeting.

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2. If the client confirms that he/she wants to terminate DDD eligibility and services voluntarily, complete the *Notice of Disenrollment from DDD* (DSHS 10-310) and the *Notification of Termination from DDD HCBS Waiver* (DSHS 10-298), if the client is enrolled in the Waiver:
 - a. Have the client or his/her legal representative sign a written statement requesting discharge from DDD and DDD services. Obtain a witness' signature if possible.
 - b. Send copies of the signed statement and the DSHS 10-310 to:
 - i) The legal representative or if no legal representative then to another relative;
 - ii) The Regional Support Network (RSN);
 - iii) The DDD Mental Health Program Manager;
 - iv) The DDD Mental Health CRM; and
 - v) DRW.