

**Procedure for Determining Eligibility
for Individuals with a Developmental Disability**
OAR 411-320-0080 and 411-320-0170

Who is responsible for determining eligibility.

CDDP's are responsible for determining eligibility. The county where the adult resides is responsible for making the eligibility determination; in the case of a child, the county where the parent resides, or where the county court having jurisdiction for the child is, is responsible for making the eligibility determination.

The eligibility process should begin **within 10 working days** of receiving an application for services.

How is eligibility determined.

- a) Eligibility decisions are to be made, as much as possible, from current evaluation information.
- b) For individuals under age 21 years, the evaluation material shall be no more than three years old.
- c) For individuals 21 years of age or older, eligibility must be based on the information obtained after the individual's 17th birthday.
- d) For some individuals, a history showing an IQ pattern of 65 or under can substitute for a current evaluation. In cases where two scores disagree (65 & 73) a third is required to show the pattern
- e) The CDDP does not diagnose. Evaluations and diagnoses are to be completed by qualified professionals. OAR 309-042-0050 establishes criteria as to who is qualified to make a diagnosis of developmental disabilities.
- f) Assessment of cognitive functioning needs to follow acceptable psychological practice.
- g) Age appropriate cognitive measures are to be used. Children are to be tested with measures that are structured for children. Adults require adult measures.
- h) Any effects of mental/emotional disorders, sensory impairments, substance abuse, learning disabilities, attention deficit/hyperactivity disorder, and personality disorder must be ruled out as to contributing to any decrease in either cognitive or adaptive functioning.

Procedure for Determining Eligibility for Individuals with a Developmental Disability

- i) Non-verbal individuals are to be tested with measures that consider the lack of verbal communication.
- j) For individuals either raised within or currently living within a culture dissimilar to the general American society, culturally neutral measures are to be used. When culturally neutral measures are not available, the individual's culture is to be considered when a final decision is made regarding the meaning of the cognitive results.
- k) Individuals whose primary language is other than English should be tested in their primary language. When not possible, a person experienced in translation of the language is to be involved.
- l) For individuals who have been diagnosed with a developmental disability and who are obviously significantly adaptively impaired, no formal adaptive assessment is required for redetermining their eligibility. One of the following measures indicated below can be utilized:
 - A case manager with at least 2 years experience working with people with developmental disabilities can record their observations of the adaptive impairments in client progress notes or,
 - An acceptable measurement of adaptive behavior (Vineland, ABAS, etc.) may be administered and scored by a social worker or other professional with a graduate degree, training and experience in administering the assessment and interpreting the results.

Reviewing eligibility.

- a) Eligibility is to be reviewed periodically; in particular, any time there is new information that could change a person's eligibility. People do change over time, especially when living in enriching environments.
- b) Children are to be cognitively evaluated around age six years (no later than their 7th birthday) to determine if they meet eligibility criteria for developmental disabilities services.

Procedure for Determining Eligibility for Individuals with a Developmental Disability

- c) Older children with an eligibility of mental retardation and children in residential services must have adult eligibility determined prior to their 18th birthday. Cognitive reevaluation to verify the presence of mental retardation is required. For individuals who have a consistent pattern of cognitive results of IQ 65 or under, no cognitive re-testing is needed.
- d) Individuals with a developmental disability other than mental retardation are to have the presence of the disability verified and be reevaluated regarding their adaptive functioning by their 22nd birthday.

Notification of the eligibility.

The CDDP is to notify the applicant or their legal representative of the eligibility decision in writing within 15 working days of receiving information from which eligibility can be established.

The notification is to include:

- ✓ A copy of the eligibility statement
- ✓ The rationale for the decision
- ✓ A list of the documents used
- ✓ The right to review the documents
- ✓ The right to appeal a denial of eligibility including the timeline for filing, where to file and the availability of assistance in filing

Consultation for making eligibility decisions.

In the event the local CDDP needs assistance in either obtaining or understanding eligibility documents, consultation with the Diagnosis and Evaluation Coordinator is recommended. Any of the following can be used:

- ◆ telephone consultation with recommendations
- ◆ file review with written recommendations
- ◆ technical assistance on the eligibility review process including staff training and 1:1 assistance

The Diagnosis and Evaluation Coordinator will need the following information for a case consultation:

- adaptive assessments
- developmental history

Procedure for Determining Eligibility for Individuals with a Developmental Disability

- medical/psychiatric assessments
- psychological assessments
- other relevant information

A case consultation by the Diagnosis and Evaluation Coordinator is a recommendation only. Eligibility workers are still expected to make the initial decision regarding eligibility.

Handling an appeal.

- a) The CDDP is responsible for the resolution of any grievance of a denial of eligibility. Grievances must be submitted **in writing, by the grievant, within 30 days of receiving the notice of denial of eligibility.**
- b) The CDDP has **30 days to respond in writing** with a decision to the grievant. The timeline can be extended beyond the 30 days to obtain or review new information if the grievant agrees. The agreement must be in writing.
- c) If the CDDP is not able to resolve the grievance informally to the satisfaction of the grievant, the CDDP must refer the grievance to the Diagnosis and Evaluation Coordinator for a formal appeal **within 5 working days** from the expiration date of the review time period. CDDP's are to be actively involved up to and through the informal part of the appeal process.
- d) The Diagnosis and Evaluation Coordinator has 30 days in which to respond in writing with a decision to the grievant. The Diagnosis and Evaluation Coordinator will need the following information to respond to a formal appeal request:
 - the documents used in the eligibility decision
 - the reason the CDDP denied eligibility
 - the grievant's or their legal representative's name and address
 - the reason for the grievant's dispute
- e) The Diagnosis and Evaluation Coordinator will communicate the decision, in writing, to the grievant with a copy to the CDDP. The D & E Coordinator can extend the 30 days to obtain or review new information if the grievant agrees. The agreement must be in writing. The written decision will:

Procedure for Determining Eligibility for Individuals with a Developmental Disability

- ◆ uphold the decision of the CDDP or
 - ◆ overturn the decision of the CDDP or
 - ◆ indicate there is not sufficient information by which a decision can be made
 - ◆ include the reason for the decision
 - ◆ explain further steps in the appeal process
- f) The grievant may request a grievance committee review **in writing, within 15 working days** of receiving the decision of the Diagnosis and Evaluation Coordinator.
- g) The Grievance Review Committee: schedules the review within 30 days of the grievant's request, affords the grievant the opportunity to review documents, to be heard and to be represented and provides a written recommendation within 15 days to the SPD Administrator
- h) The Administrator makes a decision within 15 days of receiving the committee's recommendation and sends written notice to all parties
- i) The decision of the Administrator is final. Further review can be obtained through a judicial review.