

RULES AND REGULATIONS
RELATING TO THE DEFINITION OF DEVELOPMENTALLY DISABLED
ADULT AND THE DETERMINATION OF
ELIGIBILITY AS A DEVELOPMENTALLY DISABLED ADULT

A. Kathryn Power,
Director, Department of
Mental Health, Retardation
and Hospitals

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PREAMBLE

The Division of Developmental Disabilities within the Department of Mental Health, Retardation and Hospitals has promulgated these rules and regulations in order to provide a fair and accurate implementation of the definition of developmentally disabled adult in accordance with the statutory definition.

SECTION 1 SCOPE AND PURPOSE

It is the intent of these Rules and Regulations to establish standards and procedures for the determination of eligibility as a developmentally disabled adult pursuant to R.I. Gen. Laws 40.1-21-1 et seq. and R.I. Gen. Laws 40.1-26-1 et seq. Nothing in these rules and regulations shall be construed to relieve any agency, state or local from its obligations to provide services to any person regardless of whether the individual is eligible for services from the Division.

SECTION 2 DEFINITIONS

2.1 "Advocate" means a legal guardian or an individual acting on behalf of an applicant in a manner clearly consistent with the interests of the person and may include a friend or professional advocate. (R.I. Gen. Laws 40.1-26-2 (1))

2.2 "Applicant" means the person who is applying for services from the Division of Developmental Disabilities.

2.3 "Assessment tool" means a standardized instrument used to evaluate an individual's level of functioning.

2.4 "Division" means the Division of Developmental Disabilities within the Department of Mental Health, Retardation and Hospitals.

2.5 "Eligibility Committee" means the Division's committee composed of a multi-disciplinary team which may include social workers, psychologists, nurses and developmental disability and mental retardation professionals who shall meet to determine whether or not applicants who have applied for services from the Division are eligible in accordance with the statutory criteria.

2.6 "Relative" means a member of the participant's or applicant's family who has been actively involved in the participant's or applicant's life, has an ongoing relationship with the participant or applicant and is supportive in a manner clearly consistent with the best interests of the participant or applicant. (R.I. Gen. Laws 40.1-26-2(11))

2.7 "Serious mental illness" means an illness which is biologically based, severe in degree and persistent in duration, which causes a substantially diminished level of functioning in the primary aspects of daily living and an inability to cope with the ordinary demands of life, which may lead to an inability to maintain stable adjustment and independent functioning without long-term treatment and support and which may be of lifetime duration. Serious mental illness includes schizophrenia, bi-polar disorders as well as a spectrum of psychotic and other severely disabling psychiatric diagnostic categories, but does not include infirmities of aging or a primary diagnosis of mental retardation, alcohol or drug abuse or anti-social behavior. (R.I. Gen. Laws 40.1-5.4-7(10))

2.8 "Developmentally Disabled Adult" means a person, eighteen years old or older and not under the jurisdiction of the department for children, youth and families who is either a mentally retarded developmentally disabled adult or is a person with a severe chronic disability which: (a) is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is manifested before the person attains age 22; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self care, (2) receptive and expressive language, (3) learning (4) mobility, (5) self direction, (6) capacity for independent living, (7) economic self sufficiency (e) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other services which are individually planned and coordinated. For purposes of funding, it is understood that students enrolled in school will continue to receive education from their local education authority in accordance with R.I. Gen. Laws 16-24-1 et seq. (R.I. Gen. Laws 40.1-21-4.3(5))

2.9 "Mentally retarded developmentally disabled adult" means a person 18 years or older and not under the jurisdiction of the department of children, youth and families, with significant subaverage, general intellectual functioning two standard deviations below the norm, existing concurrently

with deficits in adaptive behavior and manifested during the developmental period. For purposes of funding, it is understood that students enrolled in school will continue to receive education from their local education authority in accordance with R.I. Gen. Laws 16-24-1 et seq. (R.I. Gen. Laws 40.1-21-4.3(8))

2.10 "Attributable to a mental or physical impairment or combination of mental or physical impairments," means that the individual has an impairment of the central and/or peripheral nervous system (brain and spinal cord), or a neurological, intellectual, or cognitive condition, and/or paralytic or other motor disorders but does not include impairments as the result of social problems such as juvenile delinquency or substance abuse. The professional(s) making the determination of the presumed disability will be those normally qualified to make such judgments using accepted assessment procedures in the area of developmental disabilities.

2.11 "Manifested before the age of twenty-two" means that the person's disability became apparent before the person attained age 22 and resulted in substantial functional limitations prior to the 22nd birthday.

2.12 "Likely to continue indefinitely" means that the body system(s) affected are ones that are not likely to regain capacity even with medical or rehabilitative treatment; the mental/physical impairment is known to be chronic; it is the judgment of a qualified professional that the individual is likely to remain impaired for the foreseeable future.

2.13 "Substantial functional limitation" means the applicant performs substantially below the level expected for an adult with respect to the skills necessary in an area of major life activity.

2.14 "Self care," means the daily activities that enable a person to meet basic life needs for food, hygiene and appearance.

2.15 "Receptive and expressive language" means communication involving both verbal and non-verbal behavior enabling the individual both to understand others and to express ideas and information to others.

2.16 "Learning" means general cognitive competence and the ability to

acquire new behaviors, perceptions and information and to apply experiences in new situations.

2.17. "Mobility" means motor development and the ability to use fine and gross motor skills; the ability to move from one place to another.

2.18 "Self-direction" means the management and control over one's own social and personal life; the ability to make decisions affecting and protecting one's own interests.

2.19 "Capacity for independent living" means the ability to manage one's own health care and personal safety, the ability to use community resources, to perform basic housekeeping skills (cleaning, maintenance, cooking and laundry), and money management skills.

2.20 "Economic self-sufficiency" means the ability to maintain adequate employment and compensation.

2.21 "Substantial functional limitation in economic self-sufficiency" means that an individual requires on-going supervision or frequent assistance and extensive training to perform the tasks required for a job, or to be able to work and maintain his/her employment as a result of his/her disability and not as a result of economic conditions or life style choice.

2.22 "Substantial functional limitation in expressive and receptive language" means that an individual needs another person or alternative method to express or understand needs and wants or to effectively communicate with others or the individual is unable to understand/comprehend language or other forms of communication.

2.23 "Substantial functional limitation in independent living" means that an individual needs ongoing assistance or frequent supervision to manage health care needs, to use community resources, to manage money, to perform routine housekeeping, or to maintain personal safety.

2.24 "Substantial functional limitation in learning" means that an individual has tested two standard deviations below the mean on a comprehensive individual intelligence test or has had a comparable performance in two or more specific intellectual areas, such as memory, computation, reading/writing and perception or that the person demonstrates the need

for ongoing assistance or frequent supervision to use information or skills in different or new situations.

2.25 "Substantial functional limitation in mobility" means that an individual needs the ongoing physical assistance of another person to move from place to place or needs the use of an extraordinary assistive device to move from place to place.

2.26 "Substantial functional limitation in self-care" means that an individual needs on-going physical assistance, extensive training and/or frequent supervision in taking care of personal needs such as eating, personal hygiene and dressing.

2.27 "Substantial functional limitation in self-direction" means that an individual requires ongoing assistance or frequent supervision in making decisions about social activities, personal finances, planning and setting goals, protecting one's interests, establishing and asserting one's rights and maintaining social relationships and resolving problems in daily living.

SECTION 3 POLICY

3.1 The concept of developmental disability is that individuals with different conditions/diagnoses share certain characteristics that give rise to shared service needs.

3.2 The definition of developmental disability is focused on individuals with the most severe functional limitations.

3.32 The determination that an applicant does or does not meet the definition of developmentally disabled adult is a professional judgement based on an evaluation and review of all relevant records and documents by an interdisciplinary team of developmental disability professionals and cannot be decided on the basis of a specific categorical disability or solely through the use of assessment tools or based upon the opinion of only one type of professional.

3.4 The Division of Integrated Mental Health is established to plan and provide a comprehensive range of services to a priority population, adults with serious mental illness, (R.I. Gen. Laws 40.1-5.4-1 et seq.). Individuals with serious mental illness shall receive services through the Division of

Integrated Mental Health and will only be determined eligible for services from the Division of Developmental Disabilities, if in addition to their serious mental illness, they also meet the statutory definition of developmentally disabled adult.

3.5 Any acceptance of Division funded services is voluntary, except in accordance with R.I. Gen. Laws 40.1-22-1 et seq.

SECTION 4 ELIGIBILITY FOR SERVICES

4.1. Any resident of Rhode Island who meets the statutory definition of developmentally disabled adult is eligible to receive services from the Division.

4.2. Application for Services may be made by:

- (a) The applicant;
- (b) A legal guardian or relative of an applicant;
- (c) A school district where the applicant is receiving educational services;
- (d) Staff from the Department of Children, Youth and Their Families when the applicant is in the custody of that agency;
- (e) Provider agencies, professionals, or advocates, with the permission of the applicant.

4.3. An application for services shall be in writing on forms provided to the applicant by the Division. When an application is provided, the Division shall also provide Releases of Information to be signed by the applicant or the applicant's legal guardian or relative in order to permit the Division to have access to educational, medical, psychological, vocational and other records that will assist the Division in the eligibility determination. If the applicant or other person applying for services on behalf of an applicant requires assistance in completing the application, Division staff shall assist in the completion of the application. A copy of the application is attached hereto for reference. If the application is not made directly by the applicant or the applicant's relative or legal guardian, then the agency, advocate or professional making the application is responsible for providing the Division with all records and evaluations.

4.3.1 An applicant's refusal to sign the necessary releases of information and/or to assist the Division in obtaining the necessary records

shall result in the Division determining the applicant to be ineligible for services from the Division.

4.4. Whenever possible, an application should be made at least three months prior to the applicant's need for services in order to ensure a timely decision regarding eligibility.

4.5. For those individuals who make an application after the age of twenty-two (22), records, documents or other information must be available to determine if the disability was present in its substantial form prior to the applicant's twenty-second birthday.

4.6. The Division will identify the name, address and phone number of the staff responsible for receiving and processing applications and shall establish a system for documenting the receipt of applications. Within ten (10) business days of the receipt of an application, the Division shall notify the applicant in writing that the application has been received and shall begin the process of making the eligibility determination.

4.7. In cases where the information regarding eligibility is inconclusive, the Division may request that the applicant undergo further intellectual, functional and/or behavioral assessments. If the assessments cannot be paid for through the applicant's insurance, the Division is responsible for the cost of the assessments. In the event that an applicant is unwilling to undergo further evaluations, the Division shall determine the applicant to be ineligible for services.

4.8 The Division will make a judgment regarding the necessity of a personal interview with the applicant but prior to any determination of ineligibility, except when ineligibility is determined in accordance with 4.3.1, Division staff will personally interview the applicant.

4.9. The Eligibility Committee shall review the information and records received and shall within thirty (30) days of the receipt of all requested records and/or assessments (completed application), make a decision regarding whether or not the applicant meets the criteria as a developmentally disabled adult and is therefore, eligible for services from the Division.

4.10 If the necessary documents have not been obtained within forty-five

(45) days from the date that the application was received, the applicant shall be notified by the Division that the documents have not been received by the Division and therefore an eligibility determination cannot be made until the necessary records are received.

4.10.1 If it is determined that the records sought are not available, an alternate assessment pursuant to 4.7 may be required by the Division or the Division may make the eligibility determination based upon the available information and records.

4.11 If the Eligibility Committee determines that an applicant is ineligible for services from the Division, notice of the determination shall be sent to the applicant, the applicant's legal guardian or relative and, when appropriate, the agency, advocate or professional who referred the individual. The notice shall include a statement as to the reasons why the Eligibility Committee determined that the applicant was not eligible for services and a statement regarding the applicant's appeal rights.

4.12 If the Eligibility Committee determines that an applicant is eligible for services from the Division, notice of the determination shall be sent to the applicant, the applicant's legal guardian or relative and, when appropriate, the agency, advocate or professional who referred the applicant. The notice shall state the name, address, and phone number of the Division staff member who should be contacted to begin the process of developing the individualized plan for the applicant.