

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
Medical Services Board
MEDICAL ASSISTANCE - SECTION 8.600
10 CCR 2505-10 8.600

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

8.600 Services for Individuals with Intellectual and Developmental Disabilities

8.600.4 Definitions

"Developmental Disability" means a disability that:

- A. Is manifested before the person reaches twenty-two (22) years of age;
- B. Constitutes a substantial disability to the affected individual, as demonstrated by the criteria below at C, 1 and/or C, 2; and,
- C. Is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism or other neurological conditions when such conditions result in either impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation.

1. "Impairment of general intellectual functioning" means that the person has been determined to have a full scale intellectual quotient equivalent which is two or more standard deviations below the mean (70 or less assuming a scale with a mean of 100 and a standard deviation of 15).

a. A secondary score comparable to the General Abilities Index for a Wechsler Intelligence Scale that is two or more standard deviations below the mean may be used only if a full scale score cannot be appropriately derived.

b. Score shall be determined using a norm-referenced, standardized test of general intellectual functioning comparable to a comprehensively administered Wechsler Intelligence Scale or Stanford-Binet Intelligence Scales, as revised or current to the date of administration. The test shall be administered by a licensed psychologist or a school psychologist.

c. When determining the intellectual quotient equivalent score, a maximum confidence level of ninety percent (90%) shall be applied to the full scale score to determine if the interval includes a score of 70 or less and shall be interpreted to the benefit of the applicant being determined to have a developmental disability.

2. "Adaptive behavior similar to that of a person with mental retardation" means that the person has an overall adaptive behavior composite or equivalent score that is two or more standard deviations below the mean.

a. Measurements shall be determined using a norm-referenced, standardized assessment of adaptive behaviors that is appropriate to the person's living environment and comparable to a comprehensively administered Vineland Scale of Adaptive Behavior, as revised or current to the date of administration. The assessment shall be administered and determined by a professional qualified to administer the assessment used.

b. When determining the overall adaptive behavior score, a maximum confidence level of ninety percent (90%) shall be applied to the overall adaptive behavior score to determine if the interval includes a score of 70 or less and shall be interpreted to the benefit of the applicant being determined to have a developmental disability.

D. A person shall not be determined to have a developmental disability if it can be demonstrated such conditions are attributable to only a physical or sensory impairment or a mental illness.

8.607.2 DETERMINATION OF DEVELOPMENTAL DISABILITY

A. Any person, his/her legal guardian, parent(s) of a minor or such person(s) authorized by law may submit a written request for a determination of whether the applicant has a developmental disability.

B. A determination of developmental disability does not constitute a determination of eligibility for services or supports. The Community Centered Boards shall determine whether a person has a developmental disability and therefore may be eligible to receive services and supports pursuant to Sections 25.5-10-202(2) and 211, C.R.S., in accordance with criteria as specified by the Department. Eligibility for Medicaid funded programs specific to persons with developmental disabilities shall be determined pursuant to the Colorado Department of Health Care Policy and Financing's Medical Assistance rules (10 C.C.R. 2505-10).

C. The developmental disability determination shall be made according to Department procedures, which shall identify the qualifications of person(s) making such a determination.

D. A request for determination of developmental disability shall be submitted to the Community Centered Board in the designated service area where the person resides, including temporary residence such as incarceration or hospitalization.

E. At the time of request, the Community Centered Board shall:

1. Provide the applicant any required forms and a list of the minimum required documents and information necessary for the determination of developmental disability; and,
2. Provide the applicant with information on where to obtain testing for the level of intellectual functioning and adaptive behavior, if requested. The responsibility for obtaining such assessments shall be with the applicant and/or legal guardian.

F. The applicant and/or legal guardian shall provide all documentation and information necessary for the determination of developmental disability within ninety (90) calendar days of the request.

1. The Community Centered Board may request additional documentation and/or information, as needed, to complete the determination of developmental disability.
2. The applicant and/or legal guardian may have additional assessments completed and submitted to the Community Centered Board for consideration.

G. If the applicant and/or legal guardian has not provided the documentation and information necessary for the determination within ninety (90) calendar days of the request, the Community Centered Board shall:

1. Close the request and notify the applicant in writing according to the procedures established at section 8.607.2.L.4; or,
2. The Community Centered Board may, at the request of the applicant and/or legal guardian, extend the deadline for providing the necessary documentation and information by up to an additional ninety (90) calendar days.
 - a. In no case shall the deadline for providing the necessary documentation and information exceed one hundred eighty (180) calendar days.

b. The Community Centered Board shall provide a written update to the applicant no less than every ninety (90) calendar days until a determination of developmental disability is completed or the request is closed.

c. If the extended deadline for providing the necessary documentation and information has expired and there is still insufficient information to make a determination of developmental disability, the Community Centered Board shall close the request and notify the applicant and/or legal guardian in writing according to the procedures established at section 8.607.2.L.4.

H. For all applicants, the Community Centered Board shall enter into the Department's designated data system and shall permanently maintain a written and/or electronic record of the developmental disability determination on a Department prescribed form. The record, at a minimum, shall include:

1. The name of the applicant;
2. The applicant's date of birth;
3. The date of the determination of developmental disability;
4. A description of the rationale for the developmental disability determination including, at minimum, assessment scores and diagnoses;
5. The name(s) and title(s) of the person(s) involved in making the determination.

I. All information and assessments used to determine a developmental disability shall be current so as to accurately represent the applicant's abilities at the time of determination.

1. Assessments of adaptive behavior shall have been completed within three (3) years of the request.
2. Assessments of intellectual functioning shall have been completed as follows:
 - a. If an individual is between five (5) and eighteen (18) years of age, at least one intellectual assessment shall have been completed to determine the individual's impairment of general intellectual functioning; or,
 - b. If an individual is eighteen (18) years of age or older and there is only one intellectual assessment available to determine the individual's impairment of general intellectual functioning, the assessment shall have been completed when the individual was at least eighteen (18) years of age and shall have been completed within ten (10) years of the request; or,
 - c. If there is historical pattern of consistent scores, based on two (2) or more intellectual assessments, that demonstrates an impairment of general intellectual functioning, the assessments may be used regardless of the individual's age at the time of determination.
3. An established neurological condition shall be documented as follows:
 - a. A diagnosed neurological condition shall be determined by a licensed medical professional practicing within the scope of his/her license; or,

b. If a specific diagnosis is not possible, a written statement from a licensed medical professional, practicing within the scope of his/her license, or a licensed psychologist may be used as long as there is a documented effort to determine a diagnosis and the available assessment information reasonably supports a conclusion that a neurological impairment is present.

4. The effects of mental illness or physical or sensory impairment must be considered to determine the extent to which such impairments are the sole contributing factor to the impairment of general intellectual functioning or limitations to adaptive behavior.

J. Prior to July 1, 2015, the Community Centered Board shall make the determination of developmental disability within ninety (90) calendar days of the receipt of all necessary information. On or after July 1, 2015, the Community Centered Board shall make the determination of developmental disability within (30) calendar days of the receipt of all necessary information.

K. The date of the developmental disability determination shall be the date that the Department prescribed form and all documentation and information necessary for the determination of developmental disability was received by the Community Centered Board. If a delay to the determination of developmental disability is due to the actions or inactions of the Community Centered Board, the original date of request shall be used.

L. The Community Centered Board making the developmental disability determination shall, in writing, notify the applicant or legal guardian, and the authorized person requesting the determination, if other than the applicant or legal guardian, and other such persons as designated by the applicant, of the decision. Such notification shall:

1. Be mailed to the person within seven (7) calendar days of the date of determination;
2. Be provided in such alternative means of communication as to reasonably ensure that the information has been communicated in an understandable form; and,
3. For persons determined to have a developmental disability, contain an explanation of the process that will occur and notice that, at a minimum, an Individualized Plan shall be developed upon enrollment into a developmental disability service;
4. For persons determined not to have a developmental disability or persons whose request is closed without the determination of a developmental disability, state the reasons for the determination or closure, and provide a written Long Term Care Notice of Action form in accordance with the provisions of section 8.057, et seq. of the Colorado Department of Health Care Policy and Financing's medical assistance rules (10 C.C.R. 2505-10) regarding the applicant's right to appeal the decision to the Office of Administrative Courts.

M. Applicants determined not to have a developmental disability may request a new determination of developmental disability at any time upon receipt of new or missing required information, and a new request date shall be established.

N. A determination of developmental disability shall be accepted by other Community Centered Boards, service agencies and regional centers.

O. A determination of developmental disability shall be permanent and shall not require renewal or review unless:

1. The interdisciplinary team determines that developmental disability services are no longer needed due to improvement in a person's condition and recommends a redetermination; or,

2. Information from a new evaluation becomes available which demonstrates sufficient improvement in a person's condition such that the determination should be reviewed.