



# KDADS STANDARD POLICY

<b>Policy Name:</b>	HCBS Intellectual/Developmental Disability Program Eligibility Determination Policy	<b>Policy Number:</b>	M2023-054
<b>Commission:</b>	Long Term Services & Supports (LTSS)	<b>Date Established:</b>	05/17/2001
<b>Applicability:</b>	HCBS I/DD Waiver	<b>Date Last Revised:</b>	04/26/2004
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	04/10/2023
<b>Policy Location:</b>	<a href="#">HCBS Policies (ks.gov)</a>	<b>Date Posted:</b>	04/12/2023
<b>Status/Date:</b>	FINAL 04/12/2023	<b>Number of Pages:</b>	1 of 7
<b>Revision History</b>	<b>04/26/2004</b>		

## Purpose

This policy establishes the process and procedures to determine programmatic eligibility for the HCBS I/DD waiver. This policy does not address functional or financial eligibility.

## Summary

This policy provides clarification on the established criteria and establishes the process and procedures for determining programmatic eligibility for the HCBS I/DD waiver.

## Entities/Individuals Impacted

- Community Developmental Disability Organization (CDDO)
- Kansas Department for Aging and Disability Services (KDADS)
- Kansas Department of Health and Environment (KDHE)

## I. Policy

### A. General

1. Consistent with K.S.A. 39-1803 (f) and (h), individuals who are residents of Kansas and who have an intellectual or developmental disability are those whose condition presents an extreme variation in capabilities from the general population which manifests itself in the developmental years resulting in a need for life long interdisciplinary services.
2. To further clarify substantial functional limitation for programmatic eligibility purposes, the CDDO may, but is not required to, use a professionally accepted method of assessment as described in the current version of the I/DD Eligibility Handbook.
3. Pursuant to the current, approved 1915(c) Intellectual and Developmental Disability waiver, waiver eligibility begins at five (5) years of age.

### B. Programmatic Eligibility Criteria

1. Intellectual Disability

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<b>Status/Date:</b>	FINAL 04/12/2023	<b>Page Number:</b>	2 of 7

a) A diagnosis of intellectual disability shall be made by a healthcare or mental health professional licensed to make a current (at the time of diagnosis) DSM diagnosis.

b) Intellectual Disability is defined by K.S.A. 39-1803 as:

i. Substantial limitations in present functioning; and

ii. Manifested during the period from birth to 18 years of age; and

iii. Characterized by significantly sub-average intellectual functioning existing concurrently with deficits in adaptive behavior including related limitations in two (2) or more of the following applicable adaptive skill areas:

(a) Communication

(b) Self-care

(c) Home living

(d) Social skills

(e) Community use

(f) Self-direction

(g) Health and safety

(h) Functional academics

(i) Leisure

(j) Work

## 2. Developmental Disability

a) Developmental Disability does not include individuals who are solely severely emotionally disturbed or seriously and persistently mentally ill or have disabilities solely as a result of infirmities of aging.

b) A diagnosis of a Developmental Disability shall be made by a healthcare or mental health professional licensed to make a current (at the time of diagnosis) DSM diagnosis.

c) Developmental Disability is defined as:

i. An intellectual disability; or

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<b>Policy Location:</b>	<a href="#">HCBS Policies (ks.gov)</a>	<b>Date Posted:</b>	04/12/2023
<b>Status/Date:</b>	FINAL 04/12/2023	<b>Page Number:</b>	3 of 7

ii. A severe, chronic disability which

- (a) Is attributable to a physical or mental impairment, a combination of mental and physical impairments or a condition which has received a dual diagnosis of intellectual disability and mental illness; and
- (b) Manifested before the age of 22; and
- (c) Is likely to continue indefinitely; and
- (d) Results, in the case of a person five (5) years of age or older, in substantial functional limitations in three (3) or more of the following areas of life functioning:
  - (1) Self-care
  - (2) Receptive and expressive language development and use
  - (3) Learning and adapting
  - (4) Mobility
  - (5) Self-direction
  - (6) Capacity for independent living
  - (7) Economic self-sufficiency
- (e) Reflects a need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services, which are life-long, or extended in duration and are individually planned and coordinated.

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## II. Procedures

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- A. The CDDO shall designate a person as the single point of contact for the individual to assist with activities related to service application, programmatic eligibility determination, and information referral.
  - 1. Each person who determines programmatic eligibility shall complete up to 40 hours of KDADS approved training per year.
  - 2. The community council shall also approve the training per K.A.R. 30-64-23.
- B. In the event an individual is found programmatically eligible, the CDDO shall notify the individual/legal guardian or activated DPOA, in writing, pursuant to the CDDO contract.

<b>Policy Name:</b>	HCBS Intellectual/Developmental Disability Program Eligibility Determination Policy	<b>Policy Number:</b>	M2023-054
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<b>Status/Date:</b>	FINAL 04/12/2023	<b>Page Number:</b>	4 of 7

1. The checklist, and supporting documentation if applicable, pertaining to HCBS programmatic eligibility determination shall be uploaded into the KDADS' system of record within five (5) business days following the determination.
  2. Documentation not pertaining to HCBS programmatic eligibility determination (i.e., system eligibility determinations) shall not be uploaded into KDADS' system of record.
- C. In the event an individual is not found programmatically eligible the CDDO shall notify the individual/legal guardian or activated DPOA, in writing, including notice of their appeal rights, that they do not meet the I/DD programmatic eligibility criteria.
1. The documentation pertaining to HCBS programmatic eligibility determination shall be uploaded into the KDADS' system of record within five (5) business days following the determination.
  2. Notification shall be sent to the individual within ten (10) business days of programmatic eligibility determination.
  3. Notification shall include the option for an independent, third-party CDDO review of the programmatic eligibility determination.
  4. Documentation not pertaining to HCBS programmatic eligibility determination (i.e., system eligibility determinations) shall not be uploaded into KDADS' system of record.
- D. In the event the individual requests an independent, third-party review, the CDDO shall notify and send the documentation to the reviewing CDDO.
1. The independent, reviewing CDDO shall review the exact documentation used to make the first eligibility determination to ensure the manual criteria were correctly applied.
  2. The independent review shall be completed within ten (10) business days of the request from the original CDDO.
- E. If, after the independent, third-party review, the determination is unchanged, persons shall be notified that they have a right to request an administrative appeal, which must be received within 30 days of the issuance of the final local notification, plus three (3) days for mailing. If KDADS is informed of an administrative appeal, KDADS shall notify the CDDO and request the individual's determination records. The CDDO shall send all determination records to KDADS legal within 72 hours via secure email or mail.
- F. The CDDO shall be available for and attend all eligibility hearings at the request of KDADS.
- G. Re-determinations to confirm continued HCBS I/DD programmatic eligibility may be performed at the discretion of the CDDO.

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<b>Status/Date:</b>	FINAL 04/12/2023	<b>Page Number:</b>	5 of 7

### III. Documentation/Quality Assurance

- A. The CDDO shall upload, into the KDADS’ system of record, all documentation pertaining to the individual’s programmatic eligibility determination including but not limited to diagnosis from a licensed healthcare professional.
1. This documentation shall be uploaded within five (5) business days of programmatic eligibility determination.
  2. Documentation shall be uploaded for individuals who are found programmatically eligible as well as for individuals who are programmatically ineligible.
  3. Documentation shall be uploaded for those individuals who were found programmatically eligible prior to the implementation of this policy and who move to a new CDDO catchment area.
- B. The CDDO shall maintain correspondence and documentation surrounding the programmatic eligibility determination process.

### IV. Definitions

**Activated DPOA:** An activated Durable Power of Attorney (DPOA) is a document that has taken effect based on the existence or onset of required documented conditions and provides authority to another person to make financial and/or health care decisions on behalf of another individual. The person that is designated as the DPOA is generally referred to as the "Attorney in Fact" or as the agent. (K.S.A. 58-652)

**Business Day:** Any day that is not a Saturday, Sunday, or legal holiday. A legal holiday includes any day designated as a holiday by any statute or regulation of this state. In computing any period of time in this policy, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

**Combination:** More than one kind of service or support occurring simultaneously.

**Communication:** Skills include the ability to comprehend and express information through the spoken word, written word, graphic symbols, sign language or through facial expressions, body movement, touch and gesture.

**Community Use:** Skills related to the appropriate use of community resources.

**Functional Academics:** Cognitive abilities and skills related to learning at school that have direct application in life. The focus is on acquisition of academic skills that are functional in terms of independent living.

**Health and Safety:** Skills related to maintenance of one’s health in terms of eating, illness, treatment, and prevention.

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<b>Status/Date:</b>	FINAL 04/12/2023	<b>Page Number:</b>	6 of 7

**Home-living:** Skills related to functioning within a home, including clothing care, housekeeping, food preparation and cooking, budgeting, and home safety.

**Individually Planned and Coordinated:** Arranged for each person with explicit needs, goals, objectives, time frames, or procedures identified for that person and managed by a separate person or process, which assures the services and supports are not conflicting or duplicative at any given time or over time.

**Legal Guardian:** an individual or a corporation certified in accordance with K.S.A. 59-3070, and amendments thereto, who or which is appointed by a court to act on behalf of a ward, and who or which is possessed of some or all of the powers and duties set out in K.S.A. 59-3075, [and] amendments thereto. “Guardian” does not mean a “natural guardian” unless specified. (K.S.A. 59-3051(e))

**Leisure:** The development of leisure and recreational interests that reflect preferences and choices of the person.

**Lifelong:** Without known end; with an expectation of lasting throughout a person’s life.

**Self-care:** Skills involved in toileting, eating, dressing, hygiene, and grooming.

**Self-direction:** Skills related to making choices, learning and following a schedule, initiating activities appropriate to the setting, conditions, schedule, and personal interests, completing necessary or required tasks, seeking assistance when needed, resolving problems, demonstrating appropriate self-advocacy skills.

**Sequence:** Different service/support composites occurring in succession.

**Severe, chronic disability:** The person must meet ALL the conditions outlined in K.S.A. 39-1803. This would imply extreme variation from the general population in capabilities as well as a condition of long duration that is likely to continue indefinitely. Manifest before the age of 22: The condition is clearly apparent and obviously in place prior to a person’s 22nd birthday.

**Significantly sub-average intellectual functioning:** A score of two standard deviations or more below the mean as measured by a generally accepted standardized individual measure of general intellectual functioning.

**Social:** Skills related to social exchanges with others, including imitating, interacting, and terminating interactions, receiving and responding to pertinent situational clues, recognizing feelings, providing feedback, regulating one’s own behavior, making choices, sharing, controlling impulses, conforming conduct to laws, and displaying appropriate socio-sexual behavior.

**Substantial Functional Limitations:** Limitations should be an extreme variation from the general population regarding an individual’s ability to perform in the Areas of Life Functioning. If this is not obvious, then the Eligibility Determination Instrument (EDI), or other professionally accepted method of behavioral assessment, may be administered. Substantial functional limitations shall include functions the individual is physically unable to complete and shall not include functions unable to be completed due to a behavioral reason.

**Work:** Skills related to performing a part or full-time job or jobs in the community in terms of specific job skills.

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<b>Policy Location:</b>	<a href="#">HCBS Policies (ks.gov)</a>	<b>Date Posted:</b>	04/12/2023
<b>Status/Date:</b>	FINAL 04/12/2023	<b>Page Number:</b>	7 of 7

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## Authority

1915(c) I/DD HCBS Waiver

## State Authorities

K.S.A. 39-1801 through 39-1810

K.S.A. 58-652

K.S.A. 59-3051(e)

K.S.A. 59-3070

K.S.A. 59-3075

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## Related Information

**PUBLIC COMMENT PERIOD:** 01/20/23 – 02/20/23

## RELATED CONTENT:

### Policy:

- Kansas IDD System Eligibility Policy