

# KDADS STANDARD POLICY

<b>Policy Name:</b>	HCBS Physical Disability Waiver Eligibility Policy	<b>Policy Number:</b>	E2021-114
<b>Commission:</b>	Aging and Disability Community Services and Programs Commission	<b>Date Established:</b>	10/6/2021
<b>Applicability:</b>	HCBS Physical Disability Waiver	<b>Date Last Revised:</b>	10/6/2021
<b>Contact:</b>	HCBS Physical Disability Waiver Program Manager	<b>Date Effective:</b>	10/6/2021
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	10/6/2021
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## *Revision History*

## **Purpose**

The purpose of this policy is to establish the criteria for the Home and Community Based Services (HCBS) Physical Disability (PD) waiver program eligibility and the management of the waiver waiting list. It also establishes the policy and procedure requirements of the assessing entity responsible for functional assessment/screening of an individual's level of care eligibility for the waiver program.

## **Summary**

This policy clarifies the established procedures for assessing and reporting the HCBS PD waiver program's eligibility and managing the program's waiting list.

## **Entities/Individuals Impacted**

Aging and Disability Resource Center (ADRC)  
 Kansas Department of Health and Environment (KDHE)  
 Kansas Department for Aging and Disability Services (KDADS)  
 Managed Care Organization (MCO)

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## I. Policies

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### A. General Policy

1. The Aging and Disability Resource Center (ADRC) shall serve as the single entry point for the HCBS PD waiver program.
2. The ADRC shall be responsible for conducting the Level of Care (LOC) eligibility assessment for the program, including administering the functional eligibility assessment for PD program eligibility.
  - a) The ADRC shall perform conflict-free functional eligibility assessments
3. Individuals must meet the level of care score requirement for nursing facility placement, as determined by the state's functional eligibility instrument, to be functionally eligible for the HCBS PD waiver program.
4. The ADRC will conduct functional eligibility assessments in accordance with the approved HCBS waiver current at the time of the assessment and this policy.
5. A functional eligibility assessment shall be conducted for every applicant of the program, and a reassessment shall be conducted annually.
  - a) Functional eligibility assessment shall be performed using the state-approved functional assessment instrument.
6. A crisis exception request can be made at the time of initial assessment or at any time while on the waiting list.
7. Participants who turn 65 years of age and are receiving Physical Disability waiver services have the option to continue receiving services under the program or may choose to transition to the HCBS Frail Elderly (FE) program, provided they meet the established criteria.
  - a) If a participant wishes to transition to the FE waiver, the individual's MCO shall follow the transition process described by the HCBS Transition policy on the KDADS website.
8. The ADRC will complete a provisional plan of care for individuals newly eligible to receive services in the program.

### B. Eligibility Criteria

1. Applicants for the program shall meet the following eligibility criteria:

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- a) Be between 16 through 64 years of age
  - b) Be a resident of Kansas
  - c) Must show the need for assistance in performing activities of daily living (ADLs); must meet the level of care required for nursing facility placement as determined by Medicaid Long Term Care (LTC) standards.
    - i. Total Level of Care (LOC) score of 26 or higher; and
    - ii. An ADL score of 6 or higher; or
    - iii. An IADL score of 12 or higher
    - (1) The PD Waiver Program Manager may request additional medical documentation to support a PD program eligibility determination if the ADL score is less than 6 or the IADL score is less than 12.
  - d) Have a physical disability diagnosis
  - e) Be determined disabled by the Social Security Administration
2. Not currently participating or on the waiting list of the HCBS Intellectual / Developmental Disability waiver program.
- a) Applicants with an I/DD primary diagnosis may not be eligible to be assessed for PD waiver eligibility
    - i. In the event an applicant has a primary diagnosis of I/DD, the assessor must make a referral to the CDDO, in the area which the participant resides, for evaluation.
  - b) Applicants who have a diagnosis of severe and persistent mental illness [SPMI], or a severe emotional disturbance (SED), must also show proof of a physical disability.
3. Meet Kansas Medicaid financial eligibility

### C. Qualifications of ADRC functional eligibility assessor

- 1. The ADRC is responsible for verifying functional eligibility assessor qualification, experience, education, and certification requirements.

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- a) The ADRC must maintain functional eligibility assessor records for five (5) years following employment termination.
2. Functional eligibility assessors for the program shall meet the following qualification requirements:
- a) Four-year degree from an accredited college or university with a major in gerontology, nursing, health, social work, counseling, human development, family studies, or related area as defined by the ADRC contractor, OR
    - i. Must be or a Registered Nurse license to practice in the state of Kansas
  - b) Functional eligibility assessors must complete the functional eligibility assessment instrument designated by KDADS.
    - i. An assessor who has not conducted any functional assessments within six months must repeat the training and certification requirements for the functional eligibility assessment instrument designated by KDADS.
  - c) Functional eligibility assessors must complete training in the state-designated Management Information prior to performing any functional eligibility assessment.
3. KDADS shall conduct all training sessions, certification, and recertification of the functional eligibility assessment instrument.
- a) All training and certification sessions must be documented;
  - b) The ADRC shall be responsible for tracking and monitoring its assessors' training and certification.

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## II. Procedures

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### A. Level of care and functional eligibility determination

1. Prior to the functional eligibility assessment, the ADRC must complete a preliminary standard intake screening that assesses for the following:
  - a) Applicant age,
  - b) Applicant residency, and
  - c) Reasonable indicators of meeting the level of care eligibility

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- i. In the event the applicant does not meet all the preliminary standard intake screening criteria, the assessor shall not continue with the PD assessment and shall take additional action to refer the individual to the appropriate resources.
  2. If the individual meets the age, residency, and reasonable indicator criteria, the assessing entity shall:
    - a) Schedule a face-to-face visit to assess the applicant’s functional eligibility for the program.
      - i. The face-to-face visit shall be conducted with the applicant as the primary source of information
      - ii. The assessor must provide accommodations as required under federal law and the Americans with Disabilities Act (ADA) to ensure the applicant is able to participate in the assessment process.
      - iii. Family members and other individuals who might have relevant information about the participant may be interviewed.
    - b) Verify that the applicant has the appropriate physical disability diagnosis
      - i. Applicants with a Serious and Persistent Mental Illness must also have been determined disabled by the Social Security Administration.
      - ii. In the event the disability diagnosis or determination does not indicate a physical disability, the assessor must notify the applicant that the state will request additional documentation to support their disability and that any documentation provided must have relevant information to support the diagnosis of a physical disability.
3. The eligibility assessor shall conduct the functional eligibility assessment using the state-designated functional eligibility instrument.
4. Upon completion of the assessment, the assessor shall complete the following:
  - a) Provide the applicant with the LOC outcome,
    - i. The assessing entity shall provide the individual with a copy of their assessment upon request only.
  - b) Obtain the applicant’s, or their legal guardian’s, or their activated Durable Power of Attorney for Health Care (DPOAHC) assignee’s signature on the LOC outcome documentation,

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- c) Complete a state-designated Release of Information (ROI) Form, and obtain the applicant's signature,
  - i. The applicant, the applicant's legal guardian, or the activated Durable Power of Attorney for Health Care (DPOAHC) assignee can sign the ROI.
- d) Provide a copy of the LOC outcome documentation of the applicant's assessment.

**B. Functionally Eligible Determination**

- 1. If an applicant is found functionally eligible, the assessor will:
  - a) Complete a provisional plan of care for the functionally eligible applicant,
    - i. Using the PD Provisional Plan of Care accessible on the KDADS website.
  - b) The assessor shall evaluate the individual for a potential crisis exception in accordance with the PD Crisis Exception Policy.
- 2. The assessor shall:
  - a) Proceed to upload the following documents into the KDADS designated management information system of record:
    - i. A signed copy of LOC outcome documentation
    - ii. A signed copy of the state-designated Release of Information (ROI) Form
    - iii. A copy of the PD Provisional Plan of Care form (only if the applicant is functionally eligible)
    - iv. ES-3160 Notification of KanCare HCBS Services Form (completed sections I and II, indicating eligibility or ineligibility)
- 3. The assessor shall data enter/upload/submit the assessment, along with all the required documents to the PD Program Manager, via email or upload into the designated state management information system of record within five (5) business days of completion.
  - a) The PD Program Manager shall designate the preferred system of record for documents submission.

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4. Upon receipt of all required documentation, the PD Program Manager will review the assessment and all documentation and make a determination.

- a) If an applicant is determined eligible, the PD Program Manager shall change the applicant's status to "**Active**" on the program waiting list.

**C. If an applicant is NOT found functionally eligible, the assessor will:**

1. Proceed to upload the following documents into the KDADS designated management information system of record:

- a) A signed copy of LOC outcome documentation; to include consumer's appeal rights and responsibilities.
- b) A signed copy of the state-designated Release of Information (ROI) Form
- c) ES-3160 Notification of KanCare HCBS Services Form (completed sections I and II, indicating ineligibility)

**D. Administrative Case Management (ACM) Entity**

1. The ACM entity shall assist the HCBS PD program applicant in the following:

- a) KanCare Application Assistance
  - i. The ACM entity shall be the single point of contact for applicants during Medicaid application.
- b) Accessing required documentation for functional, program, and financial eligibility determinations including but not limited to the following:
  - i. Proper applicable documents to support crisis exception requests for a qualifying applicant.
  - ii. Documentation of Social Security Disability determination for BI, PD waiver applicants.
  - iii. Proof of Application of SSA Disability Benefits for individuals not yet determined as disabled by the SSA
- c) Serving as a liaison between the applicant and assessing entity (ADRC) to facilitate a successful application process.

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## E. Annual Assessment

1. The ADRC shall conduct a re-evaluation for a level of care eligibility every 365 days for active PD waiver participants.
  - a) Annual assessments must be conducted not later than 365 days after the previous functional assessment, but **NOT** earlier than forty-five (45) days prior to the expiry of the 365 days.
    - i. In the event any ADRC entity is unable to meet this requirement due to reasons other than delays caused, initiated, or requested by the participant, the ADRC shall send an exception to policy request to KDADS PD waiver program manager no later than one week prior to the expiry of the 365 days.
    - ii. The ADRC shall not delay the re-evaluation until the exception to policy is approved by the KDADS PD waiver program manager and communicated back to the requesting ADRC.
  - b) If waiver participant's annual assessment does not meet the level of care eligibility threshold and is no longer found functional eligibility for the waiver, KDADS will terminate services using the established process,
    - i. The participant will be notified of the determination and provided a grievance and appeal process.
  - c) In the event a waiver participant is not found eligible at reassessment, the following processes shall be followed:
    - i. The ADRC shall send an ES-3161 Form to KDHE 3161 designated mailbox to initiate closure of HCBS services; and must copy KDADS PD Program Manager in the notification.
    - ii. The ES-3161 must indicate that the waiver participant is found ineligible at the annual level of care evaluation.
    - iii. KDHE will notify KDADS, CMHC, and MCO through a completed ES-3161.
    - iv. KDHE will send a Notice of Action to the waiver participant for a waiver eligibility discontinuance based on failure to meet functional eligibility criteria.
  - d) The PD Program Manager may review waiver program participants' annual assessments and eligibility documents (all or randomly) for continued eligibility.



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2. Individuals shall not receive an annual assessment/re-evaluation while on the waiting list.

- a) Exception: If an individual on the waiting list applies for waiver services based on a Crisis Exception but does not have a valid assessment, the individual is eligible for a re-evaluation.

**F. Working Healthy Program (WH), Work Opportunities Reward Kansans (WORK)**

1. PD participants in the WORK program can return to the PD waiver and bypass the waitlist pursuant to the HCBS—Working Healthy/WORK Transition Policy posted on the KDADS website.

**G. Waiting List Management**

1. If there is no waiting list,

- a) entry into the waiver shall be based on a first-come, first-served basis for participants determined eligible.

2. If there is a waiting list,

- a) The entry position of the waiting list is based on the date and time the functional assessment is completed.

3. KDADS is responsible for managing the waiting list.

4. An applicant may bypass the waiting list process if they fall into one of the following groups:

- a) A child under the custody of the Kansas Departing for Children and Families (DCF) custody;
- b) Transfer from another HCBS Technology Assistance (TA) and/or Brain Injury (BI) waiver;
- c) The transition from a nursing facility through the HCBS Institutional Transition Policy;
- d) PD waiver program crisis exception,
- e) HCBS Military Inclusion exception, and
- f) Transfer from the Working Health (WH), Work Opportunities Reward Kansans (WORK) program.
  - i. Applicants transferring from the WORK program must be reassessed for the waiver program functional eligibility within 90 days of leaving the WORK program

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5. Individuals on the waiting list do not receive annual assessments.

- a) If an individual is offered a place on the waiver and does not have a current assessment (completed within 365 days of the offer), the PD Program Manager shall notify the ADRC requesting a functional assessment.

6. Waiting List Offer Round

- a) If there is an offer round, the PD Program Manager shall send an offer letter to qualified individuals on the waiting list and await an acceptance of the offer through a completed offer letter returned from the individual offered.

- i. The individual receiving the waiver program offer is required to complete a portion of the offer letter acknowledging receipt and acceptance of the program offer and must respond to their decision in one of the ways called out within the Offer Letter.

- b) Upon receiving the completed offer letter from the individual,

- i. the PD Program Manager shall complete Section 3 of the E-3160 and email it to the ADRC, KanCare Clearinghouse, and the individual’s MCO (when applicable).

7. Once the E-3160 has been sent to the KanCare Clearinghouse, the Program Manager shall move the individual to “Pending” on the waiting list, indicating their waiver access is pending Medicaid Financial Eligibility.

8. Upon receiving the coded E-3160 from the clearinghouse, the PD Program Manager shall upload the coded E-3160 into KAMIS and remove the individual from the waiting list.

9. In the event the ADRC is notified that an individual on the waiting list meets crisis criteria/requests a crisis exception, the ADRC shall follow the established process as described in the PD Crisis policy on the KDADS website

## H. PD Waiver Program Acceptance

1. Upon offer and acceptance into the waiver program after an applicant has met functional, program, and financial eligibility:

- a) The Managed Care Organization (MCO), or their designee, shall conduct a comprehensive needs assessment and develop the Person-Centered Service Plan (including both waiver and state plan services) according to the KDADS HCBS Person-Centered Service Plan policy.

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- b) The MCO shall offer the participant provider choice, offer the participant the choice between self or agency direction.

### I. Designated System of Record

1. The system of record designated by the state is Kansas Aging Management Information System (KAMIS).

- a) When entering an applicant’s information into KAMIS the system of record, the ADRC assessor must follow the instructions below:
- i. Prior to creating a New Consumer in KAMIS, a search must be completed to ensure that the applicant’s information is not already in KAMIS. The search may be completed using the applicant’s SSN and/or Medicaid ID.
  - ii. If the applicant is already in KAMIS, the ADRC assessor shall not create a new profile for the applicant but use the existing one in the system.
  - iii. The applicant’s FIRST and LAST Name must be correctly spelled and crosschecked with Form 3160 to ensure proper verification that the applicant is not already in KAMIS.
  - iv. When entering the applicant’s data into KAMIS, ensure that only the most up-to-date information is entered.

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### III. Definitions

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**ADRC:** the entity under contract with the State state to perform Intake, Functional Eligibility Assessments, Referral and Assistance, and other duties outlined in the contract.

**Applicant:** used repeatedly to refer to an applicant for the PD waiver program

**Consumer:** used repeatedly and interchangeably with the term ‘participant’ to refer to an individual currently receiving services through participation in the PD waiver program.

**Assessment:** face-to-face interview and evaluation of an individual by an eligible assessor to determine an individual’s eligibility for the program and his//her formal support needs

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**Crisis:** an event that requires swift intervention to prevent an individual from being institutionalized. Qualifying criteria are described in the PD Crisis policy on the KDADS website.

**Designated state management information system of record:** as it pertains to this policy and the PD waiver program, the system referred to here shall be the Kansas Department for Aging Management Information System (KAMIS), and could include the Medicaid Functional Eligibility Instrument (MFEI) in the future.

**Eligibility:** refers to the process whereby an individual is determined to be eligible for health care coverage or program eligibility for reimbursement through Medicaid as determined by authorized agents or personnel designated by the state.

**Level of Care Outcome Documentation:** documentation provided to the individual that notifies them of their eligibility status.

**Level of Care Threshold Score:** The score an individual must meet to be considered functionally eligible for the PD waiver. The threshold score is determined by Medicaid Long Term Care (LTC) criteria and is equal to the functional eligibility score for nursing facility placement.

**Participant:** Repeatedly refers to anyone participating in the PD waiver program or a consumer receiving services on the waiver.

**Reasonable Indicators:** Requirement by the HCBS 1915 (c) waiver. An individual must meet these requirements to qualify for a functional assessment.

**Offer Round:** A process where one or more individuals on the waiver program waiting list are presented with an option to begin participating in the program. An offer presented during the offer round must be accepted, and all additional required eligibility criteria must be met before program participation begins.

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#### IV. Authority

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1915 (c) HCBS PD Waiver Number: KS.0304

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#### V. Related Information

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E2019-008 Physical Disability Transition Policy  
E2020-004 PD Crisis Exception Policy