



# KDADS STANDARD POLICY

<b>Policy Name:</b> Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b> TBD
<b>Commission:</b> Long Term Services and Supports (LTSS)	<b>Date Established:</b> TBD
<b>Applicability:</b> Kansas I/DD System	<b>Date Last Revised:</b> TBD
<b>Contact:</b> Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b> TBD
<b>Policy Location:</b> <a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b> TBD
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<b>Revision History</b>	

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## Purpose

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This policy establishes the processes and procedures to determine eligibility for the Kansas I/DD system. This policy does not impact, cover, or determine eligibility for the Home and Community Based Services (HCBS) I/DD waiver program.

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## Summary

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This policy provides clarification on the established criteria and establishes the processes and procedures for determining eligibility for IDD **non-HCBS** services.

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## Entities/Individuals Impacted

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- Community Developmental Disability Organization (CDDO)
- Kansas Department for Aging and Disability Services (KDADS)

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	2 of 9

## I. Policy

### A. General

1. For the purpose of this policy, IDD non-HCBS services may include, but not limited to,
  - (a) Services rendered through State Aid funds and County Mill Levy funds.
2. Procedures in this policy do not supersede or determine HCBS I/DD waiver program procedures.
  - (a) In the event of an overlap in requirement impacting an applicant for the HCBS IDD waiver program, the HCBS I/DD waiver program policies shall prevail.
3. The procedures in this policy shall cover I/DD non-HCBS services.
  - (a) The term program in this policy refers to the IDD non-HCBS program funded through State Aid funds or County Mill Levy funds
  - (b) For HCBS IDD Waiver Program requirement, see the current approved HCBS IDD waiver, or the HCBS IDD waiver policies.
4. 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.

### B. Eligibility Criteria

1. Intellectual Disability
  - (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) D.S.M. diagnosis.
  - (b) Intellectual Disability is defined by K.S.A. 39-1803 as:
    - i. Substantial limitations in present functioning; and
    - ii. Manifests during the period from birth to 18 years of age; and

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	3 of 9

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:

- (1) Communication
- (2) Self-care
- (3) Home living
- (4) Social skills
- (5) Community use
- (6) Self-direction
- (7) Health and safety
- (8) Functional academics
- (9) Leisure
- (10) Work

DRAFT

## 2. Developmental Disability

- (a) 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) D.S.M. diagnosis.
- (b) Developmental Disability is defined by K.S.A. 39-1803 as:
  - i. A severe, chronic disability such as Autism, Cerebral Palsy, Epilepsy or other similar physical or intellectual impairment which:
    - (1) Is attributable to a physical or intellectual impairment, a combination of intellectual and physical impairments or a condition which has received a dual diagnosis of intellectual Disability and mental illness; and
    - (2) Manifests before the age of 22; and

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	4 of 9

(3) Is likely to continue indefinitely; and

(4) Results, in the case of a person six (6) years of age or older, in substantial functional limitations in three (3) or more of the following areas of life functioning, and

- a. Self-care
- b. Receptive and expressive language development and use
- c. Learning and adapting
- d. Mobility
- e. Self-direction
- f. Capacity for independent living
- g. Economic self-sufficiency

(c) 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.

(d) To further clarify substantial functional limitation for 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 IDD Eligibility Handbook. (Moved from procedures).

(e) 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.

### 3. Children with Developmental Delays or Acquired Condition

(a) For children Birth to age 6 developmental disability means a substantial developmental delay or specific congenital or acquired condition which:

- i. Is attributable to an intellectual or physical impairment or a combination of intellectual and physical impairments, and

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
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<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	5 of 9

- ii. Is likely to continue indefinitely, and
- iii. Results in at least three (3) developmental delays as measured by a qualified professional using appropriate diagnostic instruments or procedures, and
- iv. May be considered to have a developmental disability without meeting 3 or more of the substantial functional limitations outlined in the criteria above in 2 b. i. d. if the individual, without services and supports, has a high probability of meeting those criteria later in life
- v. Reflects a need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or extended in duration and are individually planned and coordinated, and
- vi. Does not include individuals who are solely severely emotionally disturbed or seriously and persistently mentally ill.

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## II. Procedures

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### A. Scope of procedures

1. Procedures in this policy do not supersede or determine HCBS I/DD waiver program procedures.
  - (a) In the event of an overlap in requirement impacting an applicant for the HCBS IDD waiver program, the HCBS I/DD waiver program policies shall prevail.
2. The procedures in this policy shall cover I/DD non-HCBS services.
  - (a) The term program in this policy refers to the IDD non-HCBS program funded through State Aid funds or County Mill Levy funds

### B. The CDDO shall designate a person as the single point of contact for the individual to assist with activities related to service application, system eligibility determination, and information and referral.

3. The CDDO must make this responsible person available for up to 40 hours of training per fiscal year by KDADS/CSP.

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	6 of 9

4. The community council shall also approve the training per K.A.R. 30-64-23

C. In the event an individual is found eligible for the program, the CDDO shall notify the individual/legal guardian or activated DPOA, in writing, pursuant to the CDDO contract.

D. In the event an individual is not found eligible for the program the CDDO shall notify the individual/legal guardian or activated DPOA, in writing, including appeal rights, that they do not meet the I/DD eligibility criteria.

1. Notification shall be sent to the individual within fourteen (14) calendar days of eligibility determination.

2. Notification shall include the option for a, an independent, third party CDDO review of the eligibility determination

E. 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 CDDO shall review the exact documentation used to make the first eligibility determination to ensure the manual criteria was correctly applied.

F. The Independent review shall be completed within 14 calendar days of the request from the original CDDO.

G. In the event that KDADS is informed of a non-HCBS related appeal, KDADS shall notify the CDDO.

H. Re-determinations to confirm continued eligibility may be performed at the discretion of the area CDDO.

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### III. Definitions

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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)

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	7 of 9

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.

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 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.

<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	8 of 9

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 eligibility 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.

Program: The term program in this policy refers to and is limited to the IDD non-HCBS program funded through State Aid funds or County Mill Levy funds. For HCBS IDD Waiver Program requirement, see the current approved HCBS IDD waiver, or the HCBS IDD waiver policies.

DRAFT



<b>Policy Name:</b>	Kansas Intellectual and Developmental Disability System Eligibility Determination Policy	<b>Policy Number:</b>	T.B.D.
<b>Commission:</b>	Aging & Disability Community Services & Programs	<b>Date Established:</b>	T.B.D.
<b>Applicability:</b>	Kansas I/DD System	<b>Date Last Revised:</b>	T.B.D.
<b>Contact:</b>	Kansas HCBS I/DD Waiver Program Manager	<b>Date Effective:</b>	T.B.D.
<b>Policy Location:</b>	<a href="https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies">https://kdads.ks.gov/commissions/home-communitybased-services-(hcbs)/hcbs-policies</a>	<b>Date Posted:</b>	TBD
<b>Status/Date:</b>	DRAFT	<b>Page Number:</b>	9 of 9

Authority

State Authority 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

#### IV. Related Information and Contact Information

HCBS Programs

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