



KDADS STANDARD POLICY

Policy Name:	HCBS Physical Disability Waiver Eligibility Policy	Policy Number:	E2021-114
Commission:	Long Term Services & Supports (LTSS)	Date Established:	10/6/2021
Applicability:	HCBS Physical Disability Waiver	Date Last Revised:	3/11/2024
Contact:	Physical Disability Waiver Program Manager https://kdads.ks.gov/kdads-commissions/long-term-services-supports/hcbs-policies	Date Effective:	10/6/2021
Policy Location:	services-supports/hcbs-policies	Date Posted:	TBD
Status/Date:	3/11/2024	Number of Pages:	1 of 12
<i>Revision History</i>			

Purpose

The purpose of this policy is to set forth criteria for eligibility and waitlist management for the Home and Community Based Services (HCBS) Physical Disability (PD) waiver program. This policy further defines the responsibilities of the contracted assessing entity in conducting pre-screening for reasonable indicators of an individual's Level of Care (LOC) eligibility for the PD waiver program.

Summary

This policy clarifies the established criteria for the LOC eligibility requirements and the procedures for assessing and reporting the HCBS PD waiver program's eligibility requirements, and for managing the waiver program waitlist.

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)

I. Policy

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 LOC eligibility assessment for the program, including administering the functional eligibility assessment for PD waiver program eligibility.
 - a) The ADRC shall perform conflict-free functional eligibility assessments.
3. Individuals must meet the LOC Threshold Score requirement for nursing facility placement, as determined by the functional eligibility assessment, to be functionally eligible for the HCBS PD waiver program.

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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 for the PD waiver program. For individuals on the PD waiver, a reassessment shall be conducted annually. Individuals on the waitlist do not receive an annual assessment.
6. A crisis exception request can be made at the time of initial assessment or at any time while on the waitlist in accordance with the PD Crisis Exception Policy on the KDADS website.
7. Participants who turn 65 years of age and are receiving PD waiver services have the option to continue receiving services under the PD waiver 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 program, then the individual's MCO shall follow the transition process described by the HCBS Transition policy on the KDADS website.

B. Eligibility Criteria

1. Applicants for the program shall meet the following eligibility criteria:
 - a) Be 16 to 64 years of age;
 - b) Be a resident of the State of Kansas;
 - c) Must show the need for assistance in performing activities of daily living (ADLs) or instrumental activities of daily living (IADLs); must meet the LOC required for nursing facility placement as determined by Medicaid Long Term Care (LTC) standards.
 - i. Total LOC score of 26 or higher; and
 - ii. An ADL score of 6 or higher; or
 - iii. An IADL score of 12 or higher.
 - (a) The PD Waiver Program Manager may request additional medical documentation to support a PD waiver program eligibility determination if the applicant's ADL score is less than 6 or IADL score is less than 12.
 - d) Have medical records documenting a current physical disability diagnosis;
 - i. The applicant is required to provide for review medical documentation supporting the physical disability prior to being placed on the PD waiver program, or PD waiver waitlist.

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ii. A physical disability diagnosis does not include a diagnosis of severe and persistent mental illness (SPMI) or severe emotional disturbance (SED).

e) Must be classified as disabled as per the Social Security Administration's definition of disability, 42 C.F.R. 404.1505.

2. Applicants must not be currently participating in or on the waitlist for the HCBS Intellectual/Developmental Disability (I/DD) waiver program.

a) Applicants with an I/DD primary diagnosis are not eligible to be assessed for PD waiver program eligibility.

i. If an applicant has a primary diagnosis of I/DD, then the contracted assessing entity 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. Applicants must 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 are met.

a) The ADRC must maintain functional eligibility assessor records for five (5) years following employment termination.

2. Functional eligibility assessors for the PD waiver program shall meet the following qualification requirements:

a) Must have 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; or

b) Must be a Registered Nurse licensed to practice in the State of Kansas; and

c) Must complete functional assessment training designated by KDADS, including training on the functional assessment procedure, the functional assessment instrument, and the state-designated management information system of record.

3. KDADS shall be responsible for conducting all training sessions, certification, and recertification for the functional eligibility assessment.

a) All training and certification shall be documented.

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- b) The ADRC shall be responsible for tracking and monitoring its functional eligibility assessors' training and certification.
- c) A functional eligibility assessor that has not conducted any functional assessments within the last six consecutive months must repeat the training and certification requirements for the functional assessment designated by KDADS.

II. Procedures

A. LOC and Functional Eligibility Determination

1. Prior to the functional 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 LOC eligibility.
 - i. In the event the applicant does not meet all the preliminary standard intake screening criteria, the contracted assessing entity shall discontinue with the intake screening 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, then the contracted assessing entity shall:
 - a) Schedule a face-to-face visit as soon as practicable to assess the applicant's functional eligibility for the PD waiver program.
 - i. The face-to-face visit shall be conducted with the applicant as the primary source of information.
 - ii. The face-to-face visit shall include reasonable 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 an appropriate physical disability diagnosis
 - i. Applicants with a SPMI or SED must also have been determined disabled by the Social Security Administration.

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3. The functional eligibility assessor shall conduct the functional eligibility assessment using the state-designated functional eligibility instrument.
4. Upon completion of the assessment, the functional eligibility assessor shall:
 - a) Provide the applicant with LOC Outcome Documentation;
 - i. The assessing entity shall provide the individual with a copy of their assessment upon request only.
 - b) Obtain a signature on the LOC Outcome Documentation by the the applicant, their legal guardian, or their activated Durable Power of Attorney for Health Care (DPOAHC) assignee.;
 - 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 DPOAHC assignee, can sign the ROI.

B. Functionally Eligible Determination

1. If an applicant is found functionally eligible, then the functional eligibility assessor shall:
 - a) Complete a provisional plan of care for the applicant, using the PD Provisional Plan of Care accessible on the KDADS website.
 - b) Evaluate the individual for a potential crisis exception in accordance with the PD Crisis Exception Policy.
 - c) Upload the following documents into the state-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); and
 - v. Medical documentation supporting the diagnosis of a physical disability.
2. The functional eligibility assessor shall:

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- a) Enter/upload/submit the assessment along with all required documents into the state-designated management information system of record within five (5) business days of completion.
 - b) Email the PD Waiver Program Manager the assessment along with all required documents within five (5) business days of completion.
 - c) The PD Program Manager shall designate state-designated management information system of record for documents submission.
3. Upon receipt of all required documentation, the PD Waiver Program Manager shall review the assessment and all documentation and make a determination.
- C. If applicant is found functionally eligible, the PD Waiver Program Manager shall change the applicant's status to “Active” on the PD waiver program waitlist.
1. The waitlist effective date shall be the date of the Functional Assessment.
 2. If required documentation is not provided, then the applicant will remain in “Pending” status.
- D. If applicant is determined functionally ineligible, the functional eligibility assessor shall:
1. Upload the following documents into the state-designated management information system of record:
 - a) A signed copy of LOC outcome documentation; to include participant’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)
- E. Administrative Case Management (ACM) Entity
1. The ACM entity shall assist the PD waiver program applicant in the following:
 - a) KanCare Application Assistance.
 - b) Accessing required documentation for functional, program, and financial eligibility determinations including but not limited to the following:
 - i. Documentation supporting the diagnosis of a physical disability.
 - ii. Proper applicable documents to support crisis exception requests for a qualifying applicant.

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F. Annual Assessment

1. The ADRC shall conduct a re-evaluation for LOC eligibility every 365 days for active PD waiver participants.
 - a) Annual assessments must be conducted not later the 365 days after the previous functional eligibility 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.
 - b) If waiver participant's annual assessment does not meet the LOC 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 found ineligible at reassessment, the following processes shall be followed:
 - i. The ADRC shall send an ES-3161 Form to the KDHE 3161 designated mailbox to initiate closure of HCBS services; and must copy the PD Waiver Program Manager in the notification.
 - ii. The ES-3161 must indicate that waiver participant is found ineligible at the annual LOC 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 Waiver Program Manager may review PD waiver program participants annual assessments, and eligibility documents (all, or randomly) for continued eligibility.
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.

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

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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.

H. Waiting List Management

1. If there is no waiting list, then: 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, then entry position on the waiting list is based on the date and time the functional eligibility 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.
5. Individuals on the wait 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 Waiver Program Manager shall notify the ADRC requesting a functional eligibility assessment.
6. Waiting List Offer Round
 - a) If there is an offer round, the PD Waiver Program Manager shall send an offer letter to qualified individuals on the wait 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 their decision in one of the ways called out within the Offer Letter.

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- b) Upon receiving the completed offer letter from the individual,
 - i. The PD Waiver Program Manager shall send a E-3160 referral to the appropriate ADRC for assessment.
 - ii. Upon receipt of the completed E-3160 from the ADRC, and if determined eligible, the PD Waiver 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/Removal" on the wait list, indicating their waiver access is pending Medicaid Financial Eligibility.
- 8. Upon receiving the coded E-3160 from the clearinghouse, the PD Waiver Program Manager shall upload the coded E-3160 into (Kansas Aging Management Information System (KAMIS) and remove the individual from the wait list.
- 9. In the event the ADRC is notified that an individual on the wait list meets crisis criteria and requests a crisis exception, the ADRC shall follow the established process as described in the PD Crisis policy on the KDADS website.

I. 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, develop the Person-Centered Service Plan (which includes both waiver and state plan services) according to the KDADS HCBS Person-Centered Service Plan policy.
 - b) The MCO shall offer the participant provider choice, offer the participant the choice between self or agency direction.

J. State-Designated Management Information System of Record

- 1. The state-designated management information system of record is KAMIS.
 - a) When entering an applicant's information into the KAMIS the system of record, the ADRC functional eligibility assessor must follow the instructions below:
 - i. Prior to creating a new individual 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.

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- ii. If the applicant is already in KAMIS, the ADRC functional eligibility 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 are entered.

III. Definitions

- A. **ADL (Activities of Daily Living)** – ADLs include the basic activities that people do on a daily basis in order to take care of themselves and maintain their independence. ADLs include bathing, dressing, toileting, transferring, ambulating, and eating. These activities are important for maintaining physical and mental health and well-being and are often used as a measure of a person's functional status and ability to live independently.
- B. **ADRC (Aging and Disability Resource Center)** - The entity under contract with the State to perform intake, functional assessments, referral and assistance, and other duties outlined in the contract.
- C. **Applicant** – used to refer to an individual applying for the PD waiver program.
- D. **Assessment** – face-to-face interview and evaluation of an individual by an functional eligibility assessor to determine an individual's eligibility for the program and his/her formal support needs.
- A. **Business Day:** Any day that is not a Saturday, a Sunday, or a 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, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.
- B. **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.
- C. **State-Designated Management Information System of Record** – as it pertains to this policy and the PD waiver program, the system referred to shall be the Kansas Department for Aging Management Information System (KAMIS) and could include the Medicaid Functional Eligibility Instrument (MFEI) in the future.
- D. **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 agent or personnel designated by the state.
- E. **Functional Eligibility Assessment** – An evaluation of the medical, adaptive, and behavioral needs and functional capacities of an individual to determine the LOC required to meet the individual’s needs in the least restrictive setting.

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- F. **IADL (Instrumental Activities of Daily Living)** – IADLs include more complex tasks that people do on a daily basis in order to maintain their independence and manage their daily lives. IADLs include meal preparation, shopping, medication and treatment monitoring, laundry and housekeeping, money management, telephone use, and transportation. These activities are important for maintaining a sense of autonomy and control over one's life and are often used as a measure of a person's functional status and ability to live independently.
- G. **LOC (Level of Care) Outcome Documentation** – documentation provided to the individual that notifies them of their eligibility status.
- H. **LOC (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.
- I. **Participant** – refers to anyone participating in the PD waiver program or a consumer receiving services on the waiver.
- J. **Reasonable Indicators** – requirement by the HCBS 1915(c) waiver. An individual must meet these requirements to qualify for a functional eligibility assessment.
- K. **Offer Round** – the 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.

Authority

Approved 1915 (c) HCBS Physical Disability Waiver

Federal Authorities

- 42 U.S.C. 1396n (HCBS Waiver)
- 42 C.F.R. 441.302 (State Assurances)
- 42 C.F.R. 441.303 (Supporting Documentation)
- 42 C.F.R. 404.1505 (Definition of Disability)

State Authorities

- K.A.R. 30-5-300 (Definitions)

Related Information

PUBLIC COMMENT PERIOD: DD/MM/YY – DD/MM/YY

RELATED CONTENT:

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 HCBS Transition Policy
 WH/WORK Transition Policy