

Guidance Regarding the Medically Fragile (MF) Disability Determination Requirements for Children’s Waiver Home and Community Based Services (HCBS)

TO: Health Home Serving Children (HHSC), Health Home Care Managers, and Children and Youth Evaluation Services (C-YES)

RE: Clarifications and Requirements Regarding Disability Determination for the Medically Fragile (MF) Target Population for Children’s HCBS

DATE: April 7, 2023

Purpose

This guidance is to provide clarification regarding the requirements for completing the Children’s Waiver HCBS Eligibility Determination for the Target Populations of Medically Fragile (MF) and Developmentally Disabled and Medically Fragile (DD/MF) for Health Home Care Managers (HHCM) and C-YES.

Background

To meet criteria of Medically Fragile for the HCBS Children’s Waiver, children/youth must have a documented disability on file, as demonstrated by one of the two options below.¹

1. Supplemental Security Income (SSI) Certification

This certification is determined by New York State Office of Temporary and Disability Assistance (OTDA) [NYS Division of Disability Determinations](#) and the federal Social Security Administration (SSA). SSI must be determined at least once every three years if the child/youth’s medical condition is expected to improve and every 5-7 years if improvement is not expected.

- For children under 18: The application and more information can be accessed on the SSA website [here](#).
- For youth 18 and over: The application and more information can be accessed on the SSA website [here](#).

2. DOH Disability Review Team Certificate

This certification is determined by the New York State Department of Health (DOH) Disability Review Unit (SDRU). The length of disability coverage varies from case to case, from 12 months up to 10 years.

- [DOH 5144](#) – “Disability Review Team Certificate”

Process

¹ [As of April 2022](#), the Licensed Practitioner of the Healing Arts (LPHA) form is no longer required for the Medically Fragile and Medically Fragile Developmentally Disabled (MF/DD) populations.

The process below outlines the steps and different responsibilities in determining that a child/youth meet the Medically Fragile Target Population criteria.

If the child/youth is **not** enrolled in Medicaid but is in need of HCBS and believed to meet the MF Target Population, then the child/youth must be referred to C-YES to conduct the HCBS Eligibility Determination. If found HCBS eligible, then C-YES will assist the child/youth/family to obtain Medicaid.

If the child/youth **is** enrolled in Medicaid and the Health Home program, the Health Home Care Manager would assess whether the child/youth may meet the MF Target Population and benefit from HCBS.

Process for children/youth with an active SSI Certification or DOH Disability Review Team Certificate on file

If the child/youth has a current SSI Certification or DOH Disability Review Team Certificate with valid coverage dates on file, then the HHCM/C-YES should move forward with completing the full HCBS Eligibility Determination requirements, since it is known the child/youth already meets the MF Target Population criteria. If the child/youth is determined to be eligible for HCBS, then the HHCM/C-YES can enroll the child/youth in HCBS.

It is the responsibility of the HHCM/C-YES to maintain a copy of the SSI Certification or the Disability Review Team Certificate in the member's record as part of the HCBS Eligibility Determination. These documents **MUST** be valid with current coverage dates that are within the timeframe of the HCBS Eligibility Determination that is being conducted.

To access a child/youth's existing certification and its dates of coverage, the HHCM/C-YES can request a copy in the following ways:

- 1) For SSI Certification: Complete the steps on the [SSA website](#) **or** have the parent/guardian/legally authorized representative visit their [local SSA office](#) (call first to make an appointment).
- 2) For Disability Review Team Certificate: Email the State Disability Review Unit at SDRU@health.ny.gov **or** contact the [Local Department of Social Services](#) (LDSS) where the child lives (call first to make an appointment).

HHCM/C-YES should be mindful of the authorization dates on the SSI Certification or the Disability Review Team Certificate and assist the member/family in re-certification prior to the expiration date, so that the child/youth can remain in the Children's Waiver, if appropriate. Current disability documentation is also required to complete the HCBS Level of Care (LOC) annual reassessment.

Process for children/youth without an active SSI Certification or DOH Disability Review Team Certificate on file

For children/youth who are new for initial HCBS eligibility and enrollment who do not have an active SSI Certification or DOH Disability Review Team Certificate on file but in immediate need of HCBS, the following three forms can be completed by the care manager to determine the initial (first time) HCBS eligibility, to prevent delays in accessing the Children's Waiver.

- 1) [DOH 5151](#) - "Childhood Medical Report" completed by physician, **and**
- 2) [DOH 5152](#) - "Questionnaire of School Performance" completed by teacher (if applicable; this form is not required for children who are not school-age), **and**
- 3) [DOH 5153](#) – "Description of Child's Activities Report" completed by parent/guardian or authorized representative

If the child/youth is found HCBS eligible based on the completion of these three forms to meet the Medically Fragile or the Medically Fragile portion of the Developmentally Disabled Medically Fragile Target Population, the HHCM/C-YES will enroll the member in the HCBS Children's Waiver and maintain all forms in the child/youth's case record.

NOTE: The three forms listed above cannot be used for the **annual** HCBS Eligibility Determination re-assessment. **Only** an SSI Certification or a Disability Review Team Certificate with current and valid dates within the year of the eligibility determination can be used to meet the MF and DD/MF Target Population criteria for the annual reassessment. HHCM/C-YES should begin the process of obtaining the SSI Certification or Disability Review Team Certificate immediately after the initial HCBS eligibility determination to ensure children/youth have the proper documentation in time for the HCBS annual re-assessment.

The steps to pursue and obtain a Disability Review Team Certificate are as follows:

- 1) If the initial HCBS Eligibility Determination was completed with the three forms, and an SSI Certificate is not being pursued, the HHCM/C-YES must pursue the Disability Review Team Certificate.
- 2) The HHCM/C-YES contacts the child/youth's county LDSS and requests that a referral for a disability determination be sent to New York's State's Disability Review Unit (SDRU). If the three forms (DOH 5151, 5152, and 5153) have already been completed, then these forms can be submitted to the LDSS with this request.
- 3) The LDSS will send the referral for a disability determination to the SDRU.
- 4) The SDRU will reach out to the parent/guardian/legally authorized representative to explain the process and outline the required documents that need to be completed and by whom for the Disability Review to be conducted.
- 5) The SDRU will request and coordinate the completion of all required documents by the appropriate professionals/caregivers.
 - a. The HHCM/C-YES should explain the process to the parent/guardian/legally authorized representative and assist them with filling out any forms.
 - b. If the HHCM/C-YES would like to assist the parent/guardian/legally authorized representative to complete the required forms in advance of the SDRU request, they can submit the forms (listed below) to the LDSS at the time the disability referral is requested.

- i. [DOH 5151](#) - "Childhood Medical Report" completed by physician, **and**
- ii. [DOH 5152](#) - "Questionnaire of School Performance" completed by teacher (if applicable), **and**
- iii. [DOH 5153](#) – "Description of Child's Activities Report" completed by parent/guardian or authorized representative.
- iv. [DOH 5139](#) – "Disability Questionnaire," **and**
- v. [DOH 5173](#) – "Authorization for Release of Health Information Pursuant to HIPAA"

Disability Determination and Impact to Enrollment in the Children's Waiver

The SDRU and SSI will issue a Disability Review Team Certificate/SSI Certification or denial of disability to the parent/guardian/legally authorized representative. The HHCM/C-YES should request a copy of the Certificate or denial letter from the family to maintain in child/youth's case file.

Approval of Disability with an issued Certificate:

- If the child/youth is found to meet the Disability criteria and obtains a Disability Review Team Certificate/SSI Certification, the child/youth can remain in the Children's Waiver.
- The Disability Review Team Certificate/SSI Certification will be utilized for the annual HCBS Eligibility Determination should the child/youth continue to need HCBS and want to remain in the Waiver.
- The HHCM/C-YES should note the expiration of the Disability Review Team Certificate/SSI Certification to ensure follow up as needed well in advance of the annual HCBS Eligibility Determination being required.

Denial of Disability:

- If the child/youth is found **not** to meet the Disability criteria and receives a denial from the DOH Disability Review Team/SSI, then the HCBS enrolled child/youth no longer meets the HCBS Medically Fragile Target Population criteria.
- If the child/youth does not meet Medically Fragile criteria, then they must be disenrolled from the HCBS Children's Waiver within 30 days from the date of the denial of disability, due to no longer meeting continuous HCBS eligibility.
- The HH/C-YES care manager must send out the Notice of Decision (NOD) to the member/family.
- The HH/C-YES care manager must send a copy of the denial letter to the county LDSS.

The HH/C-YES care manager must notify DOH capacity management requiring a removal of the K-codes due to disenrollment. As with all disenrollments, the HHCM/C-YES should notify all care team providers, especially HCBS providers and Medicaid Managed Care Plans, of the disenrollment.

Family Awareness

It is important when the HH/C-YES is completing the initial HCBS Eligibility Determination for Medically Fragile or Developmentally Disabled and Medically Fragile Target Population without a Certificate of Disability:

- The family is aware that they must pursue a disability determination for their child/youth immediately, if not already started.
- If disability is denied, the child/youth will no longer meet the MF Target Population and be disenrolled from the Waiver and services being received.

Education to the child/youth/family is essential regarding HCBS eligibility for all Target Populations. Additionally, families should be informed about the Disability Review Team/SSI process, the required documents, the professionals that will need to be contacted, and subsequently the amount of time it might take to determine disability.

Timeline of Next Steps

No later than November 1, 2023, all members enrolled under the MF or DD/MF Target Populations must have a Disability Determination or be disenrolled from the Children's Waiver.

- If the member's 2023 HCBS re-assessment has already occurred without a disability certificate, then the HHCM/C-YES must **immediately** submit the three forms (DOH 5151, 5152 – if applicable, and 5153) to the LDSS and request a disability referral, and then follow all the requirements outlined in this guidance moving forward.
- If the member's 2023 HCBS re-assessment is due prior September 1, 2023, the HHCM/C-YES must immediately submit the three forms (DOH 5151, 5152 – if applicable, and 5153) to the LDSS and request a disability referral.
- If the disability determination has not yet been made when the HCBS re-assessment is due, then the three forms (DOH 5151, 5152 – if applicable, and 5153) may be utilized to complete the HCBS re-assessment for the MF Target Population up until November 1, 2023.

Please reach out to BH.Transition@health.ny.gov with any questions.

The State Disability Review Unit is also available for questions about disability documentation requirements at SDRU@health.ny.gov.