



Department
of Health

Updates and Clarification Regarding Medically Fragile (MF) Population Home and Community Based Services (HCBS) Level of Care (LOC) Determination

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Meet Today's Speaker

**Department
of Health**

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Agenda

- 1 | Children's Waiver**
- 2 | Medically Fragile Required Disability Documentation**
- 3 | Process for Children/Youth with Documentation**
- 4 | Process for Children/Youth without Documentation**
- 5 | Q&A**

The goal of today's session is to explain the process and requirements for determining whether children/youth meet the Medically Fragile Target Population criteria for HCBS

HCBS Children's Waiver

Children/Youth must first meet HCBS Eligibility Determination to be enrolled within the Waiver. The Children's Waiver Purpose:

- To allow access to an expanded array of services within the Medicaid benefit to address the needs of children/youth
- To help to maintain children/youth within their home and community and avoid long term residential and institutional stays.
- To provide ample services and supports to children/youth and their families in order to avoid hospitalizations or out-of-home care for high risk children/youth.
- To assist children/youth within an institution access to supportive services to be able to return back to their home and community.

Children's Waiver – HCBS Level of Care

To become eligible and enrolled within the Children's Waiver, an HCBS Level of Care/Eligibility Determination must be conducted by either the Health Home care manager or Children and Youth Evaluation Services (C-YES)

This annual assessment has several components that **MUST** be met for eligibility:

1. Target Population criteria
2. Risk Factors, supporting documentation, (if applicable for Target Population)
3. Functional Impact to Daily Living

HCBS Children's Waiver –Target Populations

There are four Target Populations to access the Children's Waiver

1. Serious Emotional Disturbance (SED)
2. Medically Fragile (MF) – *which is the focus of this webinar*
3. Developmental Disability/Medically Fragile (DD/MF)
4. Developmental Disability (DD) and in Foster Care

Medically Fragile Target Population

(Also for Developmental
Disability and Medically Fragile)

Development of the Children's Waiver

During the development of the Children's Waiver, there was discussion with several stakeholder groups inclusive of family members from the previous OPWDD and DOH Care at Home (CAH) Waivers.

Medically Fragile stakeholders indicated their concern regarding the amount of time it took to determine eligibility for the CAH Waivers, as the child/youth ALREADY had to have documentation of disability to be enrolled in the CAH Waiver

- Documented disability could be determined either through Supplemental Security Income (SSI) Certification or NYS DOH Disability Certificate
- In some case, specifically with SSI, this could take up to 90 days or longer depending upon the documentation needed

Therefore, NYS DOH worked with the Centers for Medicare and Medicaid Services (CMS) to find a solution.

Development of the Children's Waiver (*cont.*)

Within the Children's Waiver, it is allowable for **ONLY** the initial (first) HCBS Level of Care Eligibility Determination to utilize three (3) forms that are part of the NYS DOH Disability Review Team Certificate process, to grant access to the Children's Waiver quicker, if the child/youth does not already have a documented disability through SSI or DOH Disability Review Team

1. [DOH 5151](#) - "Childhood Medical Report" completed by physician, **and**

2. [DOH 5152](#) - "Questionnaire of School Performance" completed by teacher (if applicable),
and

3. [DOH 5153](#) – "Description of Child's Activities Report" completed by parent/guardian or authorized representative.

After HCBS eligibility was determined, it is was REQUIRED that disability was established for the child/youth to remain in the Children's Waiver. These three forms above, are not to be utilized for re-assessment.

For the Target Population of Developmental Disability and Medically Fragile, it is also recommended that assessors utilize the Medically Fragile Target Population for Children's Waiver eligibility, if they are awaiting for the OPWDD ICF/IDD Level of Care Eligibility Determination (LCED).

Required Disability Documentation

To meet the 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. Supplemental Security Income (SSI) Certification

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 3 years if the child/youth's medical condition is expected to improve and every 5-7 years if improvement is not expected.

***Any documentation from SSA (e.g., benefits letter) that has the disability determination and valid dates of coverage is acceptable proof of SSI Certification.*

2. DOH Disability Review Team Certificate

Determined by the New York State Department of Health (DOH) Disability Review Unit (SDRU). The length of disability coverage varies from case to case—the minimum is usually 12 months, and the maximum can be as long as 10 years.

Process for Children/Youth with Documentation

- If the child/youth has a *current* SSI Certification/letter 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.
- 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.
- The documents **MUST** be valid with current coverage dates that are within the timeframe of the HCBS Eligibility Determination that is being conducted.
- *HHCM/C-YES should be mindful of the authorization dates on 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 required to complete the HCBS Level of Care annual reassessment.*

Process for Children/Youth without Documentation

- To assist children/youth to access the Children's Waiver HCBS immediately to meet their needs and prevent delays, the following three forms can be completed by the care manager to determine HCBS eligibility for **ONLY** the initial (first time) and be maintained in the case file.
 1. **DOH 5151 – "Childhood Medical Report"** completed by physician, and
 2. **DOH 5152 – "Questionnaire of School Performance"** completed by teacher (if applicable), and
 3. **DOH 5153 – "Description of Child's Activities Report"** completed by parent/guardian or authorized representative
- If the child/youth is found eligible based on completion of the HCBS LOC assessment with these three forms, then HHCM/C-YES will enroll the member in the HCBS Children's Waiver to prevent a delay in service provision.
- *However*, the HHCM/C-YES will still need to obtain the SSI Certification or Disability Review Team Certificate and should begin the process of obtaining the SSI Certification or Disability Review Team Certificate immediately after the initial eligibility determination to ensure children/youth have the proper documentation in time for the HCBS annual re-assessment.

Steps to Obtain Disability Review Team Certificate

1. If the initial HCBS Eligibility Determination was completed with the three forms, the HHCM/C-YES must pursue the Disability Review Team Certificate, if SSI is not already being pursued, by contacting the child/youth's county LDSS.
2. The HHCM/C-YES will send the LDSS the three completed forms and requests that a referral for a disability determination be sent to New York State's Disability Review Unit (SDRU).
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 needed 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.

Assisting the Family

The HHCM/C-YES should explain the process to the parent/guardian/legally authorized representative and assist them with filling out any forms

If the three forms of DOH 5151, 5152, 5153 were not already completed, then the HHCM/C-YES can assist the parent/guardian/legally authorized representative to complete them in advance of the SDRU request

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

The Disability Determination

- The State Disability Review Unit and SSI will issue a Disability Review Team Certificate/SSI Certification/letter or denial of disability to the parent/guardian/legally authorized representative.
- The HHCM/C-YES should request a copy of the Disability Review Team Certificate/SSI Certification/letter or denial letter from the family to maintain in child/youth's case file.
- The HHCM/C-YES needs to ensure that the Disability Review Team Certificate/SSI Certification/letter dates are current and within the annual HCBS re-assessment timeframe, to be utilized for the HCBS re-assessment.
- The HHCM/C-YES should be aware of the expiration date for the Disability, to assist the member/family to reapply, if appropriate, prior to the annual HCBS re-assessment due date.

Disability Determination – Impact on HCBS

Disability Approval with an Issued Certificate/letter:

- If the child/youth is found to meet the Disability criteria and obtains a Disability Review Team Certificate/SSI Certification/letter, the child/youth can remain in the Children's Waiver.
- This Disability Review Team Certificate/SSI Certification/letter will be utilized for the annual HCBS Eligibility Determination re-assessment 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 Certificate to ensure follow up as needed well in advance of the annual HCBS Eligibility Determination re-assessment being required.

Disability Determination – Impact on HCBS

Disability Denial with an Issued Denial Letter:

- 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. *This should be explained to the member/family.*
- The HH/C-YES care manager must send out the Notice of Decision 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 disenrollment, the HHCM/C-YES should notify all care team providers, especially HCBS providers and Medicaid Managed Care Plan, of the disenrollment.

Family Awareness

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

1. The family is aware that they must pursue a disability determination for their child/youth immediately, if not already started
2. 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.

Next Steps

It has always been a requirement for the Medically Fragile Target Population, that members have a current Disability Certificate.

1. 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 to the LDSS and request a disability referral. Then follow all requirements moving forward.
2. If the member's 2023 HCBS re-assessment is due prior September 1, 2023; the HHCM/C-YES must immediately submit the three forms 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 may be utilized to complete the HCBS re-assessment for the MF Target Population.
3. **No Later than November 1, 2023**, must all members enrolled under the MF or DD/MF Target Populations have a Disability Determination or be disenrolled from the Children's Waiver.

Q&A

Thank you!

- For questions about HCBS, reach out to BH.Transition@health.ny.gov.
- The State Disability Review Unit is also available for questions about disability documentation requirements at SDRU@health.ny.gov.