COVID-19 Guidance Emergency Eligibility Transmittal Questions

The Oregon Health Authority has identified multiple counties in Oregon with presumptive positive cases of Corona Virus Disease 2019 (COVID-19), the illness caused by the novel coronavirus. COVID-19 is spread from person-to-person through droplets in the air and on surfaces that people touch.

This guidance is by Office of Developmental Disabilities Services (ODDS) regarding emergency eligibility. Guidance will be posted on the ODDS COVID-19 web page.

Questions from Providers (received week of April 13, 2020):

Question: We have an individual who left DD services and returned 11 months later. This individual was made eligible under Pervasive Developmental Disability – Not Otherwise Specified (PDD-NOS). Since he returned less than a year later, can we just re-open the case or should we open the case as a Presumed Eligibility and complete a redetermination within the year?

Answer: Yes, Presumed Eligibility is appropriate in this case. While the current rule, OAR 411-320-0080(1)(e)(A) states: {A new application may not be required (in certain criteria listed below)}, best practice is that where eligibility was determined on a diagnosis not currently accepted in rule, a redetermination of eligibility is advised.

411-320-0080(1)(e):

(A) The file for an individual has been closed for less than 12 months following a closure, denial (from the date the Request for Eligibility Determination (form 0552) was signed), or termination; and

(B) The individual meets all of the criteria in subsection (a) of this section.
Questions from Providers (received week of March 17, 2020):

**Question:** I will proceed with eligibility work as normal with exception to face to face intakes, we continue to request medical records by fax, once I have all the records if there is a need for testing, but that is unable to be completed (due to COVID-19, no face to face visits or no telehealth available) then I can see if presumed eligibility applies. Essentially, do I only look at presumed eligibility on those cases lined out and getting testing completed is impossible due to COVID-19?

**Answer:** This is correct.

**Question:** The psychologist we use is not going to do any telehealth, and she is still scheduling appointments. We only have a couple evaluations scheduled currently and any new ones are going to be into June regardless of COVID-19. Those are going to be on the cusp of 90 days regardless of COVID so I am hopeful that things will be back to normal by then so won’t really need to access this exception.... does that sound logical to you?

**Answer:** Yes, always use the rule when you can.

**Question:** It says to send the Release Of Information electronically or by mail. Is it O.K. to send them by fax?

**Answer:** Yes - ODDS considers fax an electronic communication; this is fine. Email is also fine, but secure methods should be used if there is Health Insurance Portability and Privacy Act (HIPPA) protected information being sent. Please note federal lenience recently issued about HIPPA to ensure easier healthcare and services access.

**Question:** If the eligibility rules are being relaxed around adaptive assessments during the COVID crisis, does that mean all assessments don’t need an adaptive? I’m concerned that this will greatly increase our eligibility workload, as several of my cases will then be eligible at this time.
**Answer:** No, an adaptive should be ordered if required by rule. The first guidance in the transmittal is to follow the current rule. If an adaptive assessment cannot be completed even through tele-medicine procedures due to COVID-19, then follow the steps as outlined in the transmittal. This procedure is NOT intended as a “work-around” for psychologists or applicant to forego adaptive assessments solely for convenience.

**Question:** We did notice that under point 3) Presumed ID/DD Eligibility part (c) that it was instructed to obtain the attached Physician’s Statement. Did you mean to send out a separate Physician’s Statement, or should we just the ones that we typically use?

**Answer:** ODDS has updated templates and can send those upon request.

**Question:** Does point 3 apply to ALL applicants, or mainly in-regards to applicants that more than likely would qualify we just need an updated IQ or adaptive testing?

**Answer:** All applicants who need an administrative exam to determine eligibility under the rule, but one is not possible due to COVID-19.

**Question:** If we have something complex in which there may be a developmental disability (an example would be a possible Neurodevelopmental Disorder due to drug/alcohol in-utero-but not formal diagnosis yet) should we try to get a physician’s statement, or just see about closing the application until someone can be seen for an evaluation? Or would these be more of a case by case basis that you would want us to run past you as needed?

**Answer:** Attempt to follow the current rule. If obtaining an administrative exam is not possible due to COVID-19, then get a physician’s statement. If in doubt, please feel free to consult with the Diagnoses & Evaluation (D&E) Coordinators (especially if there may be a Notice Of Planned Action (NOPA)).
**Question:** Will eligibility deadlines be extended for the time being? We are getting emails from our schools that they are not going to be in to send us records. We have heard that local doctor offices are not seeing patients- and I wonder how we will get records from them- if they are focusing on the outbreak vs. sending us records or filling out forms that we send.

**Answer:** No, we are not making changes to the 90-day rule. This is already covered in rule; OAR 411-320-0080(10)(c)(B) says the Community Developmental Disability Program (CDDP) must obtain a completed application except when “There is an emergency beyond the control of the CDDP”. This is an Emergency Transmittal, as COVID-19 pandemic has been identified as a state and national emergency.

You must make a progress note on this, citing the COVID-19 emergency transmittal as reason.

**Question:** If we are able to do tele-intakes- would we be expected to send an application and needed releases? We will need signatures on these documents. If we do send it and they send it back- does our timeline for determination start the day we receive the signed documents or the date that the person signs the documents?

**Answer:** Yes- a signed and dated Request for Determination (0552) is still required, as well as release forms, so if telephone interview occurs work with the applicant and/or their representative to mail, fax, or email forms to obtained signed and dated documents.

**Question:** Is this for all clients that are applying for services from the date of the transmittal only- or does this count for cases I am currently working on?

**Answer:** This applies to all pending applications, and new applicants, until the transmittal and emergency policy is lifted.

Monday, April 20, 2020
**Question:** How do redetermination dates get effected by this? If someone is scheduled to see a psychologist and they can’t, will these redeterminations fall under the presumed eligible?

**Answer:** Redetermination must occur, based on your CDDP capacity. Redetermining under Presumed Eligibility is fine. If you can redetermine under the rule, you should.

If an admin exam is required and cannot be obtained due to COVID-19. The termination date should be in line with the transmittal, no longer than 12 months from the redetermination and not after May 31, 2021.

**Question:** Just wondering why the change so quickly?

**Answer:** Federal and State agencies have a responsibility to respond quickly to health crisis. COVID-19 is a worldwide health crisis, and the United States and Oregon have declared a federal and state emergency.

**Question:** Am i supposed to go through all of my open intakes and see who it applies to and open them all up?

**Answer:** No. Process your current pending applications per rule; review records as they come in and before 30 days from the date the CDDP receives them to see if a completed application exists or if an admin exam is necessary. At the earliest point in time identify if an admin exam is likely and attempt to order one; If due to COVID-19 an admin exam will not be possible even via tele-health, then implement the Emergency Eligibility Transmittal policy.

**Question:** Concerning the one-year timeline for re-review of all these cases, there is concern for the backlog that this will create. Is there direction around this? We were thinking of implementing something here around re-opening them into redetermination pretty much right away and starting to chip away at testing dates for these cases instead of waiting until next March to May and having a huge amount to manage. Maybe discussion around how to best manage this backlog that will be created.

Monday, April 20, 2020
Answer: Assuming attempts to meet the rule in determinations will still be made; Presumed Eligible cases are likely to be somewhat staggered and can be completed within 1 year of the policy ending.

People made Presumed Eligible under COVID-19 must be redetermined within a year of the policy being revoked, estimated May 31, 2020 – so redetermination before May 31, 2021.

If necessary, the policy may be revised and updated as COVID-19 and the state of emergency evolve.

Question: It states within one year of COVID-10 presumed eligibility policy rescission but also says within one year of making the presumed eligibility determination. This is not clear. These could be different timelines.

Answer: If a person is determined eligible on March 17, 2020 but the Emergency Eligibility Transmittal policy is extended through December 31, 2020 then the CDDP would have until December 31, 2021 to complete the redetermination.

If a person is determined eligible March 17, 2020 and the policy is rescinded May 15, 2020 the CDDP should complete a redetermination by March 17, 2021.

Question: Could eligibility specialists reach out to individuals in the intake process to assess their level of risk and provide resource information as opposed to presuming everyone is eligible?

Answer: Yes. An Eligibility Specialist (ES) can have discussions with applicants about the application/intake process, provide resources and information before a decision is made – but you can NOT prohibit somebody from applying.

Also, we are not “presuming everyone is eligible.” Presumed eligibility is outlined for those who are most-likely eligible and there is a short-eligibility
period with a required redetermination that will require eligibility under the 411-320 rule.

**Question**: What if our offices close and we have no ability to complete any eligibility work remotely?

**Answer**: Please contact ODDS as soon as this knowledge exists, and we will triage with your CDDP as necessary.

**Question**: What if redetermination timelines lapse because we cannot get records, or a person needs testing? Can we simply email you to request an extension?

**Answer**: Contact ODDS D&E Coordinator, Redetermine policy updates soon!

**Question**: If we are able continue working intermittently in our office, how should we prioritize eligibility work? We have reports coming in weekly for individuals who have had had testing within the past 3 months who should be prioritized to be open because they will have been awaiting a determination much longer than someone being "presumed eligible." We have new applications to process, including records requests, etc. (assuming we can get records). I’m not sure how to triage all of these things, but feel like we should work from our tracking list and prioritize individual’s whose applications have been pending the longest.

**Answer**: Work prioritization in CDDP offices is the responsibility of your supervisor and program manager. Please reach out to your local leadership team. If this does not provide you with sufficient information, contact the D&E Coordinator as needed on a case by case basis.

**Question**: Our county already has a number of admin exams scheduled. We are giving individuals (and examiners) the option to proceed as planned or complete the exam remotely using video conferencing or cancel.
We anticipate our county will identify other individuals needing admin exams. Is ODDS going to provide guidance about whether CDDPs should continue scheduling exams? We understand that fewer exams may be needed with the release of APD-PT-20-025 (Presumed Eligibility Guidance) but anticipate there will be situations where even the broader latitude temporarily granted by ODDS, is insufficient for a CDDP to move forward with a formal eligibility determination.

**Answer:** Yes. You should try to meet the rule when possible. Only if you are finding you cannot schedule an exam due to COVID-19 would you implement the Presumed Eligibility policy.

**Question:** ODDS sent an email on March 13, 2020 indicating that a corrected version of APD-PT-20-025 would be sent out. Our county received an email from ODDS including APD-PT-20-025, however, this version does not have CORRECTED typed at the top of page 1 which is making us wonder if this Policy Transmittal is actually corrected or if our county should be on the lookout for a more up-to-date version.

**Answer:** The corrected transmittal has already been posted online and the transmittal update was emailed out to the field.

**Question:** Do we have to attempt to coordinate the testing and fail, or do we just avoid testing right now? We have psychologists still willing to do inperson testing at this time, but we may not have people willing to come in for it, or may be sick by the time we get to the testing date (had one of those already). When would we give up at that point? They are not able to do IQ or Neuropsych testing via telehealth of course, so it would be adaptives only and gathering history/information that we could potentially do in that manner. I’m not getting a real positive feeling about doing those by phone. They might be willing in very clear cases but not so much on more complex situations.
Answer: Yes. You must attempt to perform due diligence in eligibility determinations per OAR 411-320. If this is not possible due to COVID-19, then implement Presumed Eligibility policy and steps in the transmittal.

Question: Regarding adults with no records prior to age 22 who need a current evaluation to get this information... I have one specifically that has epilepsy and has reported to all doctors that it began at age 10 and information is iffy around impairments related to this. Everyone states she needs a Neuropsych. What do we do in these cases if we can’t get one done?

Answer: If OAR 411-320 can be met and you can verify the developmental disability condition before age 22 do so and get a physician statement if a Neuropsych can’t be ordered due to COVID19, then implement Presumed Eligibility policy steps and work on getting a Neuropsych in the 1 year redetermination process.

Question: Can we give people referrals to resources and ask them to apply after the crisis has passed?

Answer: CDDPs and ESs have always been able to provide referrals and resources to people prior to determination of eligibility. Because our program is publicly funded, we cannot prevent anyone from applying. However, prioritization for health and safety should be considered. If an individual asks for accommodation to avoid in-person contact due to COVID19 that should be provided if possible, using tele-communications. A denial should not be issued at this time due to a person declining in-person contact; Presumed Eligibility policy should be implemented, or inquiring with the applicant or their representative if they wish to stop the application if there is low/no health/safety risk.

Question: How do we track actions made around COVID-19 policies?

Answer: Make sure to progress note variations from standard practices and rule due to COVID-19.
**Question:** If there are no COVID-19 cases in our county but we use a Psychologist in a neighboring county where there are cases and an applicant is concerned about attending an in-person appointment there, should I implement the Emergency Presumed Eligibility policy?

**Answer:** If there is an immediate health and safety risk for the person, yes. If there is no immediate health/safety risk, try to work with the individual and family to meet OAR 411-320 and prioritize applications.

**Question:** We have a 6-year-old applicant living at home with parents, with a clear qualifying diagnosis but no adaptive assessment. Do I need to put them through the entire eligibility process?

**Answer:** If possible, see if someone can complete a tele-health adaptive interview for the assessment. Oregon Health Authority (OHA) is working on emergency policy to allow provider payments for tele-health/medicine services.

**Question:** Our county has a PhD who does tele-health adaptives, and they have openings. If they are willing to accept referrals from other areas, how can we facilitate this?

**Answer:** If your CDDP is aware of a PhD who will do tele-health/medicine adaptives and is willing to accept referrals from other regions in Oregon – please email this and their contact information to the D&E Coordinators as soon as possible.

**Question:** How do we assess health and safety risks?

**Answer:** Please consult with your county on this. If you have capacity to follow the regular process for eligibility determinations, please do so. If you do not have capacity, prioritizing risk of abuse, neglect, needing additional resources for health/safety, etc., as best possible with applicants and your county. Contact your D&E Coordinator if further specific case consultation is needed.

Monday, April 20, 2020
**Question:** We are attempting to follow the transmittal and having trouble with entering data in eXPRS. What info is available by this? We can’t enter the termination date.

**Answer:** We are working on updating policy on this. We will work with our eXPRS team to adjust. Please let us know if you have problems.

**Question:** Is there guidance around how we are documenting where in the eligibility rule we are making someone Presumed Eligible? Should we make a note in general under the rule, since Presumed Eligibility doesn’t have a rule.

**Answer:** Yes, because of the State of Emergency and the Governor’s Executive Order we can generalize the area of rule the person would likely be found eligible under, then citing the Emergency Presumed Eligibility Transmittal and transmittal number into your rationale is expected. For example a person applying on March 18, 2021 with a 2017 valid FSIQ of 69, an ID diagnosis by a PhD, adaptive scores that are 70 or less and directly impacted by ID would otherwise be eligible if the records were less than 3 years old – progress note the section of rule they would be eligible under, and they are Presumed Eligible due to COVID19 Emergency Eligibility Policy and will be redetermined within a year.

**Question:** Do we send a different 729 for an adaptive completed by phone?

**Answer:** The same form would be used. The codes authorized may vary, depending on the need.

If only an adaptive assessment is administered, then authorize 96130/131 for psychological services and 96112/113 for adaptive testing, and 90785 for interactive complexity. If a provider will also be providing diagnoses in their report, add on 90791 and 90785.

*If you have additional questions, please contact your D&E Coordinator.*

Monday, April 20, 2020