

Policy Transmittal

Developmental Disabilities Services



Lilia Teninty

Authorized signature

Number: APD-PT-20-025

Issue date: 3/24/2020

Update #4: 10/23/2020

Due date: 10/23/2020

Topic: Developmental Disabilities

Transmitting (check the box that best applies):

- New policy
 Policy change
 Policy clarification
 Executive letter
 Administrative Rule
 Manual update
 Other:

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input checked="" type="checkbox"/> ODDS Children's Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD program managers | <input type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input checked="" type="checkbox"/> Support Service Brokerage Directors | <input type="checkbox"/> Other (<i>please specify</i>): |
| <input checked="" type="checkbox"/> ODDS Children's Residential Services | |
| <input type="checkbox"/> Child Welfare Programs | |

Policy/rule title:	Presumed Eligibility Guidance		
Policy/rule number(s):	Governor Brown's Executive Order 20-03 and 20-05	Release number:	4
Effective date:	6/30/20	Expiration date:	Until Further Notice
References:	Governor Brown's Executive Orders 20-03 and 20-05		
Web address:	https://www.oregon.gov/gov/Documents/executive_orders/eo_20-05.pdf https://www.oregon.gov/gov/Documents/executive_orders/eo_20-03.pdf		

10/23/2020 Updates: In response to the 90-day extension of the COVID-19 Public Health Emergency announced by HHS on Friday, October 2, 2020, ODDS is extending this transmittal. This transmittal will be in effect **Until Further Notice.**

Eligibility Redetermination Extensions: Redetermination extensions will continue until further notice, as no adverse action policies as explained in this transmittal remain in place. COVID19 Presumed Eligible redeterminations will not begin until further written notice by ODDS.

7/7/2020 Updates: Resuming redeterminations with no adverse action; Adverse action redetermination extensions and tracking; 90 day extensions for redeterminations requiring in-person evaluations; Presumed Eligible continuation until the end of the Public Health Emergency.

5/22/2020 Updates: Reflect extension and phase-in plans and Emergency Temporary Oregon Administrative Rule change to 411-320-0080(1), effective 5/13/2020.

4/2020 Updates: Updated to reflect re-determinations and the next call-in.

Discussion/interpretation: In response to the continued concerns regarding the Novel Coronavirus (COVID-19), ODDS is advising Community Developmental Disabilities Program (CDDP) Eligibility Specialists to follow all recommended preventative measures as released by the Oregon Health Authority (OHA) here: Oregon Health Authority's COVID-19 website: www.healthoregon.org/coronavirus/ and the Office of Developmental Disability Services on the [ODDS COVID-19 Information Webpage](#).

ODDS is implementing **TEMPORARY PRESUMED ELIGIBILITY (P.E.)** until such time this policy may be lifted. **For all actions, staff must clearly progress note changes due to the COVID-19 emergency policy.**

The below practices should continue to be followed when completing **Eligibility Determination** activities:

1. **Remote eligibility activity** - All eligibility activities (including applicant and clinician contact) may be completed remotely. Specifically, in-person activities (such as intakes and interviews) may be completed by phone, or secure telehealth technology, when possible to avoid in-person contact and limit risk of spreading the infectious disease. Additionally, please request all medical records, school records, and other required documentation electronically or by mail.

2. **Remote Telehealth** - Eligibility Specialists may accept evaluations from psychologists that were completed remotely until this policy is lifted. Telehealth evaluations with adaptive assessments completed with telehealth technology (i.e. phone or secured video technology) will be acceptable and should follow HIPPA requirements. Intelligence testing, or other evaluation tools that must be administered in-person will not be accepted if administered via telehealth. In the event an in-person or telehealth evaluation or assessment is required by 411-320 and cannot be completed, apply Presumed Eligibility protocols.
3. **Presumed ID/DD Eligibility** will be implemented as a temporary eligibility policy change in response to COVID-19, in the event that an administrative evaluation is not possible, and some eligibility documentation is not available. At this time, documentation more than 3 years old indicating permanent disability that would otherwise meet all eligibility criteria as outlined in OAR 411-320-0080 will be accepted. In the event that all criteria is not available, the following will be accepted:
 - a. Most recent IQ test with Full Scale Intelligence Quotients (IQ) scores of 75 and under without an adaptive assessment, completed within the last three years or prior to age 18.
 - b. A qualifying Developmental Disability diagnoses by a Qualified Professional without an adaptive assessment, prior to age 22.
 - c. When testing or documentation of a qualifying condition is more than 3 years old, an attempt to obtain the attached Physician's Statement should be made to verify:
 - i. The Qualified Professional can affirm an ID/DD diagnoses;
 - ii. The ID/DD diagnoses directly causes an adaptive behavior impairment that significantly impacts Conceptual, Practical, Social functioning, or Socialization, Daily Living Skills, Communication areas;
 - iii. The qualifying condition and impairment are reasonably expected to be indefinite.
4. **Presumed ID/DD Eligibility requirements include:**
 - a. Progress Notes must clearly identify why Presumed Eligibility policy is used for an applicant, the temporary eligibility and redetermination period.
 - b. CDDP's and Eligibility Specialist must distinctly track Presumed Eligible cases and redetermine eligibility within 1 year of this policy being lifted.
 - c. All Notices of Determination (5103) MUST:
 - i. Indicate "Presumed Eligible" with the presumed qualifying condition in the "due to" reason;
 - ii. Indicate redetermination required "*Other: Within 1 year of COVID-19 Presumed Eligibility policy rescission*";

- iii. A Notice of Redetermination (5101) must be sent at least 30 days prior to the expiration of Presumed Eligibility; and
 - iv. Redetermination under 411-320 must be completed prior to 12 months from the rescission date; and
 - v. A new decision notice must be sent to all individuals made Presumed Eligible.
- d. eXPRS eligibility must have a termination date manually entered; at this time eXPRS software updates are not possible and a termination date 12 months from the date of approval,
 - e. Whenever possible, OAR 411-320 should be followed if current documentation is available or telehealth technology will provide required eligibility documentation for the rule.
 - f. Eligibility should be processed timely with the release of this transmittal, and not delayed unnecessarily. If the OAR 411-320 requirements are not met by current available records, the Eligibility Specialist should implement Presumed Eligibility within 30 days of identifying a possible Presumed Eligibility case.
 - g. A decision notice should be sent within 10 days of obtaining Presumed Eligibility documentation as noted above.
 - h. A determination should be made within 90 days of receiving the signed and dated Request for Eligibility Determination (form 0552) unless applying OAR 411-320-0080(11)(c)(B) (effective 10/15/2020) "There is an emergency beyond the control of the CDDP."

5. **Redeterminations** – The Families First Coronavirus Response Act (H.R. 6201) requires no adverse action occur on open Medicaid cases until further notice. Redeterminations that will result in continued eligibility may proceed.

6. **Terminations - Until the COVID-19 State of Emergency is lifted and this Policy Transmittal is obsolete, eligibility redetermination decisions which will result in a termination of eligibility must be suspended and CDDP Eligibility Specialist's must follow the No Adverse Action guidelines below:**

- a. Submit a DDEE to the DHS Technical Assistance Unit (TAU) communicating the redetermination resulted in adverse action, which must be suspended, and request an eXPRS Eligibility Extension to extend the eXPRS eligibility line 12 months from the original expiration.
- b. TAU will terminate the current eligibility line and enter the eligibility extension under OHI with "COVID19" noted in the diagnoses note section; the extension will be for 12 months.
- c. All services must continue at the current level until after the COVID-19 state of emergency has lifted, this Policy Transmittal is obsolete and appropriate advanced timely notices have been issued.
 - i. The individual must be informed in writing using the ODDS extension

- template, that their redetermination for DD eligibility is being placed on hold until the COVID-19 crisis is over;
- ii. A new 5101 Redetermination must be sent upon re-instating the redetermination process;
 - iii. The ES must complete due diligence and obtain additional eligibility information that may exist.
 - iv. If a denial determination is made again, an advanced timely Notice of Planned Action in accordance with OAR 411-318, prior to termination of any services
- d. **Redetermination Denials on or after March 19, 2020, IF a decision notice was sent:**
- i. The decision and termination must be rescinded until the COVID-19 crisis is over and this Policy Transmittal is discontinued.
 - ii. The eligibility specialist must submit the D&E eXPRS Eligibility Extension request to extend the eXPRS eligibility line in eXPRS 12 months from original expiration date).
 - iii. Continuation of Benefits (COB) will be provided and all services must continue until the COVID-19 crisis is over and this Policy Transmittal is discontinued, a new redetermination process is concluded, and to the effective date of a new notice.
 - iv. The individual must be sent a rescinded Notice of Planned Action and eligibility continued for 12 months due to the Emergency Eligibility COVID-19 policy.
 - v. A new redetermination notice must be sent, a new determination occur prior to the end of the 12 month eligibility extension, and a new determination notice sent.
- e. **Redeterminations denial prior to March 19, 2020**
- i. **For all Effective Dates March 19, 2020 and later**, continuation of benefits should occur as indicated in (e) above.
 - ii. **For effective dates prior to March 19, 2020** when a hearing request was submitted, see below administrative hearing information.

7. Impact on Administrative Hearings

- a. APD Hearings Unit will be notifying local offices of cases pending hearing without continuing benefits in place and those cases will need to be restored effective March 19, 2020. Consumers who previously **did not request** this benefit should not be restored farther back than this effective date. Once the work resumes, the APD Hearings Unit will proceed to hearing on the timeframe prior to March 19, 2020 that consumers were contesting.
- b. Local offices should not take the above action until contacted by the APD Hearings Unit.

- c. Consumers that have not contested an action prior to March 19, 2020 are not impacted by this change.
- d. APD Hearings will continue to process all denials as the first work priority during this timeframe.

8. **Phase-In Pre-COVID-19 OAR Eligibility:**

OAR 411-320-0080(1) adds COVID-19 Presumed Eligible policy into rule. CDDP's must immediately implement this rule change.

9. **ODDS Pre-COVID-19 OAR 411-320 -0080 Eligibility Restoration Plan – DRAFT**

a. **July 1 - Phase 1:**

- i. New intake determinations and redeterminations with appropriate documentation - if a full OAR eligibility determination may be made the rule must be used. If a full OAR determination cannot be made, then the CDDP must use Presumed Eligible policy for initial intakes through the extended State of Emergency and extend eligibility for redeterminations as indicated in 4 and 5 (above).
- ii. New applications/intakes requiring an Admin Exam should have a regular evaluation and testing within 90 days of receipt of the intake application form, provided necessary precautions and guidance from the Oregon Health Authority, and the CDC can be met. If in-person evaluations are necessary but cannot occur due to COVID19, implement Presumed Eligibility procedures to determine initial eligibility until this policy has lifted.
- iii. **Redetermination approvals** – CDDP's may begin sending new 5101 Redeterminations for March 2020 that were extended, and process redeterminations in consecutive order from oldest extension to most current redetermination due date. Note – redetermination notice and decision notice may not be sent on the same date (even for approval).
- iv. **Redetermination terminations** – CDDP's must **suspend all redeterminations that may result in terminations**, due to No Adverse Action requirements until the end of the Federal State of Emergency; *A redetermination should not begin if full OAR eligibility is not clear. Do not send any Notice of Planned Action* terminating

eligibility due to a redetermination.

- v. Submit a DDEE eligibility extension to TAU for termination denials in suspense, as noted throughout this transmittal.
- vi. Track potential Redetermination denials and submit to ODDS upon request, and at least monthly
- vii. TAU will:
 - Extend eligibility 12 months from the current termination date
 - Enter OHI as the qualifying condition under the next age category for eligibility
 - Add “COVID-19 Extension; Redetermination denial – no adverse action” or similar notes in the “Other Diagnoses” window for eXPRS tracking of potential adverse action on redeterminations
 - Enter a FSIQ of 65 and choose “Assessment not required – IQ 65 or less” to bypass the adaptive assessment requirement
 - ODDS will pull eXPRS COVID-19 redetermination denials upon lifting of the state of emergency and collaborate with CDDPs for required action, including sending a new 5101, completing due diligence, sending a timely advanced termination Notice of Planned Action or eligibility determination if new information makes a decisional difference

10. **Redeterminations requiring in-person evaluations** – For any redetermination that requires an in-person evaluation which is not available due to COVID19 (meaning there is not a Qualified Professional willing to complete an exam *and/or* the individual does not want to attend an in-person evaluation due to concern about COVID 19), ODDS will apply redetermination extensions for all redeterminations due July 1 through the end of the Federal Public Health Emergency.

11. **Redetermination Prioritization** - Redetermination actions should continue through subsequent Phases to be prioritized in consecutive order from oldest extension action to newest.

Implementation/transition instructions: These changes are temporary and are specific to COVID-19 and will expire when it is determined that these changes are no longer necessary.

CDDP staff must manually track all Presumed Eligible initial and redetermination decisions, and process redeterminations of all cases between cessation of this policy and within a year of this policy lifting. ODDS will request tracking data as the need demands.

CDDP Eligibility Specialists and Program Managers shall implement these measures immediately and until ODDS has lifted the precautionary measures as related to the Novel Coronavirus (COVID-19).

Training/communication plan:

Eligibility Specialist statewide call-in meetings held twice a month

Additional resources:

Oregon Health Authority: OHP coverage of Telephone/Telemedicine/Telehealth services

<https://www.oregon.gov/oha/HSD/OHP/Announcements/Oregon%20Health%20Plan%20coverage%20of%20telemedicine%20services.pdf>

Oregon Health Authority (OHA) Emerging Respiratory Infections: COVID-19

<https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/DISEASESAZ/Pages/emerging-respiratory-infections.aspx>

Centers for Medicare and Medicaid Services (CMS) Information on Healthcare Facilities and the Coronavirus: [https://www.oregon.gov/DHS/PROVIDERS-](https://www.oregon.gov/DHS/PROVIDERS-PARTNERS/LICENSING/AdminAlerts/QSO%2020-09-all%20Info%20for%20Healthcare%20Facilities%20Novel%20Coronavirus.pdf)

[PARTNERS/LICENSING/AdminAlerts/QSO%2020-09-all%20Info%20for%20Healthcare%20Facilities%20Novel%20Coronavirus.pdf](https://www.oregon.gov/DHS/PROVIDERS-PARTNERS/LICENSING/AdminAlerts/QSO%2020-09-all%20Info%20for%20Healthcare%20Facilities%20Novel%20Coronavirus.pdf)

Centers for Medicare and Medicaid Services (CMS) Guidance on Emergency Preparedness and Infection Disease Outbreak:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO19-06-ALL.pdf>

Aging and People with Disabilities OSIP-M Worker Guide Redetermination guidance:

<http://www.dhs.state.or.us/spd/tools/COVID-19/COVID-19%20WG.htm#06>

eXPRS Redetermination denial COVID-19 extension example:

DD Eligibility View Details

Client Name: MICKEY MOUSE
Client Prime: YK201F2W
Client Birthdate: 4/11/1980

Determination CDDP: 0129 **Intake Date** **Intake Status** Completed **Determination Status** Eligibility Extension Approval
Notice Date 7/2/2020 **Termination Date** 7/1/2021 **Termination Code** INE **Initial Eligibility Date:** 5/18/2020

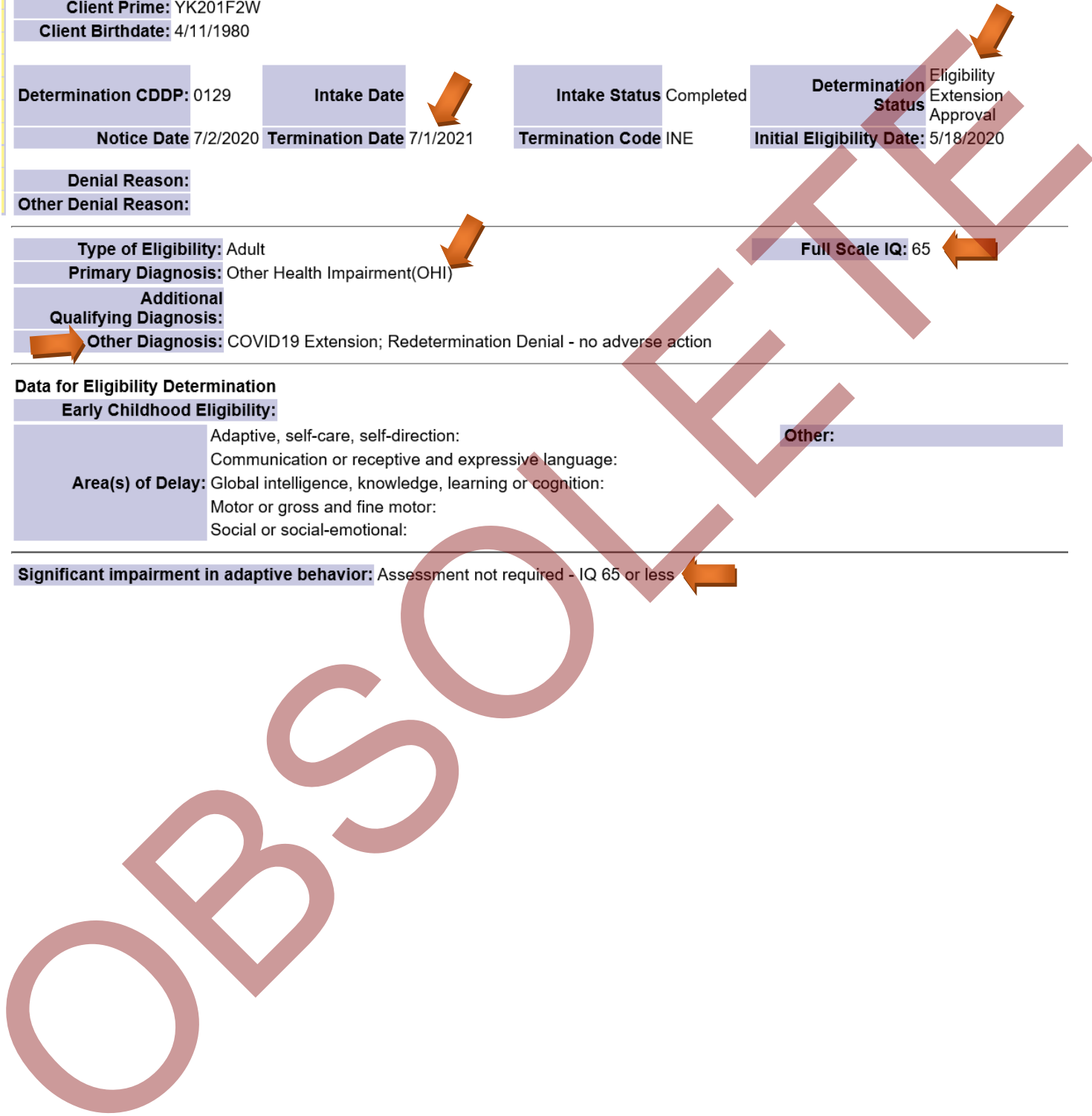
Denial Reason:
Other Denial Reason:

Type of Eligibility: Adult **Full Scale IQ:** 65
Primary Diagnosis: Other Health Impairment(OHI)
Additional Qualifying Diagnosis:
Other Diagnosis: COVID19 Extension; Redetermination Denial - no adverse action

Data for Eligibility Determination

Early Childhood Eligibility:
Area(s) of Delay: Adaptive, self-care, self-direction: **Other:**
Communication or receptive and expressive language:
Global intelligence, knowledge, learning or cognition:
Motor or gross and fine motor:
Social or social-emotional:

Significant impairment in adaptive behavior: Assessment not required - IQ 65 or less



COVID-19 Redetermination Extension Notice letter:

Date of Notice: 4/6/2020
Recipient's Name:
Date of Birth: 4/6/2020

Name: Enter recipient or representative's name
Address: Enter mailing address here

This letter is to let you know that your re-determination for Intellectual and Developmental Disabilities Services is being temporarily postponed. You received a Notice of Eligibility Re-determination dated [Click or tap to enter a date..](#)

We will not make a final decision until after Oregon's state of emergency and DHS COVID-19 emergency policies have been lifted. Your current services will not be interrupted.

You will be notified when we are able to resume the eligibility redetermination process.

You may still send us any information that may be helpful in the eligibility redetermination, but we will be unable to act upon it until after the emergency policy has lifted.

Thank you for your patience during this time. If you have any questions about this notice, please contact the eligibility specialist listed below.

Case management entity

If you have questions about this notice, please contact your eligibility specialist:

CDDP/Brokerage:

Eligibility Specialist:

[Click or tap here to enter text.](#)

Email:

Phone number:

COVID-19 Presumed Eligible Notice:

**Notice of Eligibility
Determination
for Community
Developmental
Disabilities Program**

To: Jane Doe

Date of notice: 4/7/20
Individual's name: John Doe
Individual's D.O.B.: 01/01/20

Effective 4/7/2020, you have been found to be eligible for Developmental Disability Services. A review of the available records supports your eligibility because it was determined that you have a condition of {Presumed Eligible Condition - COVID19 policy that originated in the developmental years, is likely to continue and significantly impacts your adaptive behavior as defined in OAR 411-320-0020 and 411-320-0080.

Provisional eligibility for developmental disability services

If this box is checked, your eligibility is "provisional". This means your eligibility could change if new information is obtained. You will be notified when a redetermination is needed.

Your eligibility must be reviewed by your:

7th birthday 18th birthday
22nd birthday

Other: Eligibility redetermination with full testing required before 4/7/2021

We have enclosed a list of records used in making this determination. You have the right to review this information by making a request to our office.

If you do not agree with this decision, you have the right to request a contested case hearing. Be sure to read page 2 of this notice to learn how to request a hearing.

The determination is based on the following Oregon Administrative Rule(s) including specific subsections: OAR 943-001-0020(3); 410-120-0006; 411-320-0080(5) and APD-PT-02-025.

For questions regarding this notice, contact: {Suzy Que}, Eligibility Specialist at phone number: 503-555-1212.

Local/branch action required: Review and implement policy and procedure changes immediately.

Central office action required: Provide ongoing consultation and training as needed.

Field/stakeholder review: Yes No

If yes, reviewed by:

Filing instructions:

If you have any questions about this policy, contact:

Contact(s): Becky Smallwood or Mike Harmon	
Phone: Becky: 503-957-9016; Mike: 971-707-2322	Fax:
Email: Rebecca.SMALLWOOD@dhsaha.state.or.us; MICHAEL.A.HARMON@dhsaha.state.or.us; odds.d&e@state.or.us	

OBSOLETE