

CHAPTER 75-04-06
ELIGIBILITY FOR MENTAL RETARDATION-DEVELOPMENTAL DISABILITIES
CASE MANAGEMENT SERVICES

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75-04-06-01. Principles of eligibility.

1. The process of determining an individual's eligibility to receive mental retardation-developmental disabilities case management services involves the recognition of several criteria and an understanding of expected outcomes as each criterion is applied. Professional judgment is applied to determine the applicability of the provision of mental retardation-developmental disability case management services in accordance with chapter 75-05-06.
2. The following criteria must be used as the frame of reference for a team of at least three professionals in the human service center, led by the developmental disabilities program administrator or the administrator's designee, for the determination of an individual's eligibility for mental retardation-developmental disabilities case management services.

History: Effective July 1, 1991; amended effective January 1, 1997.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-01.2-02, 50-06-05.3

75-04-06-02. Criteria for service eligibility - Class member. Repealed effective January 1, 1997.

75-04-06-02.1. Criteria for service eligibility.

1. An individual is eligible for mental retardation-developmental disabilities case management services if the individual has a diagnosis of mental retardation which is severe enough to constitute a developmental disability.
 - a. A diagnosis of the condition of mental retardation must be made by an appropriately licensed professional using diagnostic criteria accepted by the American psychiatric association.

- b. Determination of whether the manifestation of the condition is severe enough to constitute a developmental disability must be done in accordance with the definition of developmental disability in North Dakota Century Code section 25-01.2-01.
2. An individual is eligible for mental retardation-developmental disabilities case management services if the individual has a condition of mental retardation, diagnosed by an appropriately licensed professional using diagnostic criteria accepted by the American psychiatric association, which is not severe enough to constitute a developmental disability, and the individual must be able to benefit from treatment and services purchased through the developmental disability division on behalf of an individual who meets the criteria of subsection 1.
3. An individual is eligible for mental retardation-developmental disabilities case management services if the individual has a condition, other than mental illness, severe enough to constitute a developmental disability, which results in impairment of general intellectual functioning or adaptive behavior similar to that of an individual with the condition of mental retardation, and the individual must be able to benefit from services and intervention techniques which are so closely related to those applied to an individual with the condition of mental retardation that provision is appropriate. Determination of eligibility for individuals described in this subsection requires the application of professional judgment in a two-step process:
 - a. The team must first determine whether the condition is severe enough to constitute a developmental disability. North Dakota Century Code section 25-01.2-01 must be applied in order to determine if a developmental disability is present. The presence of a developmental disability does not establish eligibility for services through the mental retardation-developmental disabilities case management services system, but does require the team to consider all assessment data and apply professional judgment in the second step.
 - b. The team must then determine whether services can be provided to an individual determined to have a condition, other than mental illness, severe enough to constitute a developmental disability. The team must have a thorough knowledge of the condition and service needs of the applicant, as well as a thorough knowledge of services that would be appropriate through the developmental disabilities system. When considering if mental retardation-developmental disabilities case management is appropriate, the team must consider factors, including:
 - (1) Whether the individual would meet criteria appropriately used to determine the need for services in an intermediate care facility for the mentally retarded.

- (2) Whether appropriate services are available in the existing developmental disabilities service delivery system.
 - (3) Whether a service, which uses intervention techniques designed to apply to an individual with mental retardation, delivered by staff trained specifically in the field of mental retardation, would benefit the individual.
 - (4) Whether a service, designed for an individual with the condition of mental retardation, could be furnished to the individual without any significant detriment to the individual or others receiving the service.
- C. If the team concludes, through the application of professional judgment, that an individual's needs can be met through specific services purchased by the department for individuals who meet the criteria of subsection 1, a mental retardation-developmental disabilities case manager may be assigned. Services may be provided, subject to the limits of legislative appropriation. New services need not be developed on behalf of the individual.

History: Effective January 1, 1997.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-01.2-02, 50-06-05.3

75-04-06-03. Criteria for service eligibility - Applicants who are not members of the plaintiff class. Repealed effective January 1, 1997.

75-04-06-04. Criteria for service eligibility - Children birth through age two.

1. Service eligibility for children from birth through age two is based on distinct and separate criteria designed to enable preventive services to be delivered. Young children may have conditions which could result in substantial functional limitations if early and appropriate intervention is not provided. The collective professional judgment of the team must be exercised to determine whether the child is high risk or developmentally delayed, and if the child may need early intervention services. If a child, from birth through age two, is either high risk or developmentally delayed, the child may be included on the caseload of a mental retardation-developmental disabilities case manager and considered for those services designed to meet specific needs. Eligibility for continued service inclusion through mental retardation-developmental disabilities case management must be redetermined by age three using criteria specified in section 75-04-06-02.1.
2. For purposes of this section:

- a. "Developmentally delayed" means a child, from birth through age two:
 - (1) Who is performing twenty-five percent below age norms in two or more of the following areas:
 - (a) Cognitive development;
 - (b) Gross motor development;
 - (c) Fine motor development;
 - (d) Sensory processing (hearing, vision, haptic);
 - (e) Communication development (expressive or receptive);
 - (f) Social or emotional development; or
 - (g) Adaptive development; or
 - (2) Who is performing at fifty percent below age norms in one or more of the following areas:
 - (a) Cognitive development;
 - (b) Physical development, including vision and hearing;
 - (c) Communication development (expressive and receptive);
 - (d) Social or emotional development; or
 - (e) Adaptive development.
- b. "High risk" means a child, from birth through age two:
 - (1) Who, based on a diagnosed physical or mental condition, has a high probability of becoming developmentally delayed; or
 - (2) Who, based on informed clinical opinion which is documented by qualitative and quantitative evaluation information, has a high probability of becoming developmentally delayed.

History: Effective July 1, 1991; amended effective July 1, 1993; January 1, 1997.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-01.2-02, 50-06-05.3

75-04-06-05. Service availability. The extent to which appropriate services other than case management services are available to eligible clients is dependent

upon legislative appropriations and resources. Eligibility for case management services does not create an entitlement to services other than case management services if resources are not available.

History: Effective August 1, 1997.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-01.2-02, 50-06-05.3

75-04-06-06. Developmental disabilities program management eligibility for three-year-old and four-year-old children.

1. A child is eligible for developmental disabilities program management if all of the following conditions are met:
 - a. The child is three or four years of age;
 - b. The child has an autism spectrum disorder diagnosis confirmed by the autism spectrum disorder waiver evaluation and diagnostic team;
 - c. An autism spectrum disorder waiver slot is available; and
 - d. The child is or will be receiving a service through the autism spectrum disorder waiver.
2. If all of the above conditions are met, the child will be eligible for developmental disabilities program management until the child's fifth birthday, at which time developmental disabilities program management adult eligibility criteria will apply.

History: Effective July 1, 2010.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-01.2-02, 50-06-05.3