

**CHAPTER 75-04-06**  
**ELIGIBILITY FOR INTELLECTUAL DISABILITIES - DEVELOPMENTAL DISABILITIES**  
**PROGRAM MANAGEMENT SERVICES**

Section

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

1. The process of determining an individual's eligibility to receive intellectual disabilities - developmental disabilities program 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 intellectual disabilities - developmental disability program management services.
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 intellectual disabilities - developmental disabilities program management services.

**History:** Effective July 1, 1991; amended effective January 1, 1997; July 1, 2012; April 1, 2018.

**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Repealed effective January 1, 1997.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 - Children age three and above.**

1. An individual is eligible for intellectual disabilities - developmental disabilities program management services if the individual has a diagnosis of intellectual disability which is severe enough to constitute a developmental disability.
  - a. A diagnosis of the condition of intellectual disability 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 intellectual disabilities - developmental disabilities program management services if the individual has a condition of intellectual disability, 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 intellectual disabilities - developmental disabilities program 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 intellectual disability, 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 intellectual disability 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 intellectual disabilities - developmental disabilities program 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 intellectual disabilities - developmental disabilities program 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 individuals with intellectual disabilities.
    - (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 intellectual disabilities, delivered by staff trained specifically in the field of intellectual disabilities, would benefit the individual.
    - (4) Whether a service, designed for an individual with the condition of intellectual disability, 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, an intellectual disabilities - developmental disabilities program 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; amended effective July 1, 2012; April 1, 2018.

**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 has a high-risk condition or has a developmental delay, and if the child may need early intervention services. If a child, from birth through age two, has a high-risk condition or has a developmental delay, the child may be included on the caseload of an intellectual disabilities - developmental disabilities program manager and considered for those services designed to meet specific needs. Eligibility for continued service inclusion through intellectual disabilities - developmental disabilities program management must be redetermined by age three using criteria specified in section 75-04-06-02.1.
2. For purposes of this section:
  - a. "Developmental delay" means a condition of 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 condition" means a condition of 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 developing a developmental delay.

**History:** Effective July 1, 1991; amended effective July 1, 1993; January 1, 1997; July 1, 2012; April 1, 2018.

**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 program management services are available to eligible clients is dependent upon legislative appropriations and resources. Eligibility for program management services does not create an entitlement to services other than program management services if resources are not available.

**History:** Effective August 1, 1997; amended effective April 1, 2018.

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

**Law Implemented:** NDCC 25-01.2-02

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

Repealed effective July 1, 2014.

#### **75-04-06-07. Denial, reduction, and termination of services by the department - Appeal.**

1. A client or client-authorized representative may appeal a denial, reduction, or termination of services under this chapter. An appeal under this section must be made within thirty days of the date of the notice of the denial, reduction, or termination. The client or client-authorized representative shall submit the request for an appeal and hearing under North Dakota Century Code chapter 28-32 and chapter 75-01-03 to the appeals supervisor for the department.
2. A client or client-authorized representative may request an informal review within ten days of the date of the notice. A request for an informal review does not change the time within which the request for an appeal hearing must be filed.

**History:** Effective April 1, 2018.

**General Authority:** NDCC 25-01.2-18

**Law Implemented:** NDCC 25-01.2-02, 25-01.2-18

#### **75-04-06-08. Developmental disabilities program management caseload and responsibilities.**

1. The average caseload of the developmental disabilities program managers must be no more than sixty clients per program manager.
2. The developmental disabilities program manager shall complete the following:
  - a. Review client rights with eligible clients and applicants.
  - b. Conduct service coordination and monitoring for eligible clients.
  - c. Authorize appropriate services for eligible clients.

**History:** Effective April 1, 2020.

**General Authority:** NDCC 25-01.2-18

**Law Implemented:** NDCC 25-01.2-02, 25-01.2-18