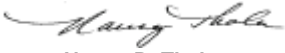
	MENTAL RETARDATION BULLETIN COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE	
	SUBJECT Clarifying Eligibility for Mental Retardation Services and Supports	BY  Nancy R. Thaler Deputy Secretary for Mental Retardation
NUMBER:	4210-02-05	
ISSUE DATE:	May 31, 2002	
EFFECTIVE DATE:	Immediately	

SCOPE:

County Mental Health/Mental Retardation Program Administrators
 Base Service Unit Directors
 Community Residential Mental Retardation Facility Directors
 State ICF/MR Directors
 Non-state ICF/MR Directors

PURPOSE:

The purpose of this Bulletin is to clarify several issues relating to eligibility for mental retardation services

BACKGROUND:

The MH/MR Act of 1966 has been the basis for defining eligibility for services in the mental retardation system. Section 102 of the Act (50 P.S. §4102) states that "mental retardation means subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following: (1) maturation, (2) learning and (3) social adjustment." Since passage of the MH/MR Act, new laws and regulations related to eligibility have been adopted. While there are several definitions of mental retardation adopted by professional organizations, the Diagnostic and Statistical Manual IV (DSM IV) is the most universally applied definition. The DSM IV states that the onset of mental retardation must occur before the 18th birthday.

Current statutes, regulations, and the Office of Mental Retardation's Medicaid waivers contain certain age standards for eligibility determinations:

- The "Developmental Disabilities Assistance and Bill of Rights Act of 2000" (42 U.S.C.A. §§15001-15115) states that a developmental disability is attributable to a mental or physical impairment that begins before age 22 and that results in substantial functional limitation in three or more areas of major life activity.
- 55 Pa. Code §6210.63 (3) (relating to diagnosis of mental retardation) provides that the [ICF/MR] applicant's or recipient's conditions were manifest before the applicant's or recipient's 22nd birthday.
- The Consolidated Waiver, the Person/Family Directed Supports Waiver, and DPW Mental Retardation Bulletin 00-99-14 entitled "Individual Eligibility for Medicaid Waiver Services" states that the individual has had these conditions of intellectual and adaptive functioning manifested before the individual's 22nd birthday.

This bulletin clarifies eligibility for mental retardation services and supports and is not intended to define eligibility for services in the Medicaid Program. Further, eligibility for waiver, ICF/MR, or other age criteria must be determined by the existing eligibility standards for those services.

DISCUSSION:

The DSM IV uses age of onset in the developmental period, cognitive functioning and adaptive skills to identify mental retardation. The Office of Mental Retardation will apply these criteria to all eligibility determinations for mental retardation services and supports. The DSM IV (see Appendix A) defines the developmental period as before the 18th birthday. However, the Office of Mental Retardation will define the developmental period as before the 22nd birthday for the onset of eligibility for mental retardation services and supports in accordance with the current laws and statutes identified above.

POLICY:

It is the policy of the Office of Mental Retardation to use the following criteria to determine eligibility for mental retardation services and supports in accordance with 55 Pa. Code § 4210.101:

§4210.101a Clarification of eligibility determinations - Statement of Policy

- A. The essential feature of Mental Retardation is significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety. The onset must occur before the individual's 22nd birthday.
 1. Except as specified in (b)(2) below, significantly sub-average general intellectual functioning shall be determined by a standardized, individually administered, intelligence test in which the overall full scale IQ score of the test and of the verbal/performance scale IQ scores are at least two standard deviations below the mean taking into consideration the standard error of measurement for the test. The full scale IQ shall be determined by the verbal and performance IQ scores (See Appendix A - DSM IV).
 2. Diagnosis of mental retardation is made by using the IQ score, adaptive functioning scores, and clinical judgment when necessary. Clinical judgment is defined as reviewing the person's test scores, social and medical history, overall functional abilities, and any related factors to make an eligibility determination. Clinical judgment is used when test results alone cannot clearly determine eligibility. The factors considered in making an eligibility determination based on clinical judgment shall be decided and documented by a licensed psychologist, a certified school psychologist, a physician, or a psychiatrist. In cases where individuals display widely disparate skills or achieve an IQ score close to 70, clinical judgment should be exercised to determine eligibility for mental retardation services.
 3. If eligibility cannot be determined through a review of the individual's record and social history, any necessary testing (e.g., adaptive functioning) shall be completed by a licensed psychologist, a certified school psychologist, a physician, or a psychiatrist. This includes determining the eligibility for an individual who is 22 years of age or older, has never been served in the mental retardation service system, and has no prior records of testing. Clinical judgment may be used to determine whether the age of onset of mental retardation occurred prior to the individual's 22nd birthday.
- B. Everyone can be evaluated or assessed.
 1. Standard tests with adaptations for the individual's visual, motor, and language impairments are available and valid. Other efforts to adapt the IQ test to the individual's particular visual, motor, and/or language impairments must be described and documented.
 2. Developmental scales may be used for people who do not or cannot participate in testing. The use of these scales reflects a necessity to use scoring matrices for populations outside the sample used to develop the normative data. They should only be used when no other standard testing technique is available.
- C. Genetic conditions and syndromes defined by particular physical features or behaviors such as Klinefelter syndrome are not, by themselves, sufficient to qualify for a mental retardation eligibility determination.
- D. The policy for legal and illegal aliens is indicated below:
 1. Citizenship is not an eligibility requirement for receipt of mental retardation services and supports in Pennsylvania. The only distinction in this matter is between those who are lawfully in this country (both citizens and aliens) and those who are here unlawfully (illegal aliens).
 2. Illegal aliens are not eligible for the Medicaid Program unless an emergency medical condition is present (42 U.S.C.A. §1396b(v)). Counties are not required to provide mental retardation services for illegal aliens.
- E. An individual who is currently eligible for mental retardation services will remain eligible for mental retardation services unless eligibility testing indicates otherwise.
- F. An individual moving into Pennsylvania from another location will receive a mental retardation eligibility determination for mental retardation services based on the clarification described in this statement of policy.
- G. Except for waiver services, appeals from a denial of eligibility follow the county administrative process designed for appeals under the Local Agency Law (2 Pa. C.S. §§551-555) and appealing through the courts. The Local Agency Law is a state law governing procedures for appeals of local agency determinations.
- H. Fiscal issues, such as access to testing and payment for testing, should be referred to the appropriate Office of Mental Retardation Regional Office for resolution.

Attachments

- Appendix A: Diagnostic and Statistical Manual (DSM) IV quotation

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Appropriate Regional Mental Retardation Program Managers