

STATEMENTS OF POLICY

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 4210]

Eligibility for Mental Retardation Services and Supports

Purpose

The purpose of this statement of policy is to clarify several issues relating to eligibility for mental retardation services.

Background

The Mental Health and Mental Retardation Act of 1966 (act) (50 P.S. §§ 4101—4704) 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 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 (OMR) Medicaid waivers contain certain age standards for eligibility determinations:

1. 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 22 years of age and that results in substantial functional limitation in three or more areas of major life activity.

2. Section 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.

3. 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 statement of policy 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 OMR 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 OMR 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 previously.

Policy

It is the policy of the OMR to use the following criteria to determine eligibility for mental retardation services and supports in accordance with § 4210.101 (relating to services provided by a base service unit).

(*Editor's Note:* The regulations of the Department, 55 Pa. Code Chapter 4210, are amended by adding a statement of policy in § 4210.101a to read as set forth in Annex A.)

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-BUL-063. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART VI. MENTAL HEALTH/MENTAL RETARDATION MANUAL

Subpart C. ADMINISTRATIVE AND FISCAL MANAGEMENT

CHAPTER 4210. DESCRIPTION OF SERVICES AND SERVICE AREAS INTAKE PROCEDURES

§ 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 subsection (b)(2), significantly subaverage 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 when 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, necessary

testing (for example, 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 language impairments shall 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 as follows:

(1) Citizenship is not an eligibility requirement for receipt of mental retardation services and supports in this Commonwealth. 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 this Commonwealth from another location will receive a mental retardation eligibility determination for mental retardation services based on the clarification described in this section.

(g) Except for waiver services, appeals from a denial of eligibility follow the county administrative process designed for appeals under 2 Pa.C.S. §§ 551—555 and 751—754 (relating to Local Agency Law) 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.

Appendix A

The following information is quoted from the Diagnostic and Statistical Manual (DSM) IV:

"The essential feature of Mental Retardation is significantly subaverage general intellectual functioning (Criterion A) 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 (Criterion B). The onset must occur before age 18 years (Criterion C). Mental Retardation has many different etiologies and may be seen as a final common pathway of various pathological processes that affect the functioning of the central nervous system.

General intellectual functioning is defined by the intelligence quotient (IQ or IQ-equivalent) obtained by assessment with one or more of the standardized, individually administered intelligence tests (e.g., Wechsler Intelligence Scales for Children—Revised, Stanford-Binet, Kaufman Assessment Battery for Children). Significantly subaverage intellectual functioning is defined as an IQ of about 70 or below (approximately 2 standard deviations below the mean). It should be noted that there is a measurement error of approximately 5 points in assessing IQ, although this may vary from instrument to instrument (e.g., Wechsler IQ of 70 is considered to represent a range of 65—75). Thus, it is possible to diagnose Mental Retardation in individuals with IQs between 70 and 75 who exhibit significant deficits in adaptive behavior. Conversely, Mental Retardation would not be diagnosed in an individual with an IQ lower than 70 if there are no significant deficits or impairments in adaptive functioning. The choice of testing instruments and interpretation of results should take into account factors that may limit test performance (e.g., the individual's socio-cultural background, native language, and associated communicative, motor, and sensory handicaps). When there is significant scatter in the subtest scores, the profile of strengths and weaknesses, rather than the mathematically derived full-scale IQ, may more accurately reflect the person's learning abilities. When there is a marked discrepancy across verbal and performance scores, averaging to obtain a full-scale IQ can be misleading.

Impairments in adaptive functioning, rather than a low IQ, are usually the presenting symptoms in individuals with Mental Retardation. Adaptive functioning refers to how effectively individuals cope with common life demands and how well they meet the standards of personal independence expected of someone in their particular age group, socio-cultural background, and community setting. Adaptive functioning may be influenced by various factors, including education, motivation, personality characteristics, social and vocational opportunities, and the mental disorders and general medical conditions that may coexist with Mental Retardation. Problems in adaptation are more likely to improve with remedial efforts than is the cognitive IQ, which tends to remain a more stable attribute.

It is useful to gather evidence for deficits in adaptive functioning from one or more reliable independent sources (e.g., teacher evaluation and educational, developmental, and medical history). Several scales have also been designed to measure adaptive functioning or behavior (e.g., the Vineland Adaptive Behavior Scales and the American Association on Mental Retardation Adaptive Behavior Scale). These scales generally provide a clinical cutoff score that is a composite of performance in a number of adaptive skill domains. It should be noted that scores for certain individual domains are not included in some of these instruments and that individual domain scores may vary considerably in reliability. As in the assessment of intellectual functioning, consideration should be given to the suitability of the instruments to the person's socio-cultural background, education, associated handicaps, motivation, and cooperation. For instance, the presence of significant handicaps invalidates

many adaptive scale norms. In addition, behaviors that would normally be considered maladaptive (e.g., dependency, passivity) may be evidence of good adaptation in the context of a particular individual's life (e.g., in some institutional settings)."¹

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