

**MASSACHUSETTS DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS)
ELIGIBILITY STANDARDS**

**Prepared by the Mental Health Legal Advisors Committee
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This pamphlet addresses Massachusetts Department of Developmental Services eligibility for adults and children.

GENERAL ELIGIBILITY CRITERIA FOR ADULTS¹

To be an eligible adult, the person must be:

- age 18 or older;² and
- domiciled in Massachusetts.³

The person also must meet one of the following two criteria:

1. intellectual disability – this is the traditional form of eligibility and the definition is in DDS regulation.⁴
2. developmental disability – this is a new basis for eligibility for people with Autism Spectrum Disorder (ASD), Prader-Willi syndrome or Smith-Magenis syndrome and the criteria are in a recently passed statute.⁵

These criteria are discussed in the following two sections respectively.

Eligibility based on intellectual disability

A person with an intellectual disability has:

- significantly sub-average intellectual functioning (which is an intelligence test score (IQ) of *approximately* 70 or below);
- that exists at the same time and is related to significant limitations in adaptive functioning (which is an overall composite adaptive functioning limitation that is *approximately* two standard deviations below the mean or *approximately* two standard deviations below the mean in one of these three domains: 1) independent living/practical skills; 2) cognitive, communication and academic/conceptual skills; 3) social competence/social skills)⁶
- the intellectual disability originates before age 18.⁷

The determination regarding an intellectual disability should involve the review of multiple sources of information and requires the exercise of clinical judgment.⁸

Eligibility based on developmental disability

The 2014 Autism Omnibus Law expands eligibility for DDS services to include adults with ASD; the law does so by expanding eligibility to those with a developmental disability as defined.⁹

Developmental disability is a severe, chronic disability that:

- presents as physical or mental impairment;
- results from ASD, Prader-Willi Syndrome or Smith-Magenis Syndrome onset before age 22;
- results in substantial functional limitations in three or more of the following areas of major life activity:
 - self care;
 - receptive and expressive language;
 - learning;
 - mobility;
 - capacity for independent living;
 - economic self-sufficiency; and
- is likely to continue indefinitely.¹⁰

Currently, the range of services available for those found eligible under this criteria is narrower than those found eligible for an intellectual disability.¹¹ For example, there are presently no group homes or 24/7 supported apartments available.¹²

ELIGIBILITY CRITERIA FOR CHILDREN FOR FAMILY SUPPORTS

To be an eligible for family supports, the child must be:

- younger than age 18;¹³ and
- domiciled in Massachusetts.¹⁴

The child also must meet one of the following two criteria:

1. intellectual disability – this is the traditional form of eligibility and the definition is in DDS regulation;¹⁵
2. a closely related developmental condition, or a developmental delay if under age five.¹⁶

The child also must demonstrate severe functional impairments.¹⁷ These are functional impairments in at least three specified areas of adaptive functioning:

- self-care,
- communication,
- learning,
- mobility,
- self-direction and,

- for individuals age 14 or older, capacity for independent living and economic self-sufficiency.¹⁸

ADDITIONAL INFORMATION

For more information, see:

- <http://www.mass.gov/eohhs/consumer/disability-services/services-by-type/intellectual-disability/support/developmental-services-eligibility-application.html>
- <http://www.mass.gov/eohhs/consumer/disability-services/services-by-type/intellectual-disability/spectrum-services/developmental-services-spectrum-children.html>
- <http://www.mass.gov/eohhs/consumer/disability-services/services-by-type/intellectual-disability/support/autism-spectrum/developmental-services-autism-waiver-services.html>

ENDNOTES

¹ DDS also has special eligibility criteria for persons identified as part of a class member identification list of April 30, 1993. See 115 CMR 6.05.

² 115 CMR 6.04(1).

³ 115 CMR 6.04(1)(a).

⁴ 115 CMR 2.01.

⁵ Chapter 226 of the Acts of 2014.

⁶ 115 CMR 2.01. DDS amended its eligibility requirements in 2012 in response to *Tartarini v. Department of Mental Retardation* (July 23, 2012), <http://law.justia.com/cases/massachusetts/court-of-appeals/2012/11-p-1009.html>. In *Tartarini*, the Massachusetts Appeals Court considered the DDS practice of requiring an IQ of 70 or below as one of its criteria for eligibility. The Appeals Court held that the definition of mental retardation that DDS had been using to determine eligibility for its services was inconsistent with the state statute authorizing the creation of DDS. The Court further held that the definition of mental retardation in the DDS regulations must be based upon “clinical authorities.” The decision noted that the DSM IV-TR includes, as mentally retarded, individuals with IQs of between 70 and 75 who have significant functional impairments. In response to the decision, DDS amended its definitions by adding the word “approximately” when referencing IQ score and by requiring, in the adaptive functioning definition, that the deviation from the norm be 2 standard deviations (instead of 1.5 standard deviations).

⁷ 115 CMR 2.01.

⁸ In making an eligibility determination, the following practices must be followed:

- there must be an interview with the applicant and, if feasible, other significant persons in his or her life and consideration of assessments and psychological test results;
- only qualified practitioners can administer and interpret psychological tests;
- the Department Regional Eligibility Team Psychologist must consider certain information.

The psychologist should consider the psychometric properties of intelligence tests, including the standard error of measurement, and other assessment instruments when interpreting test results, and may consider relevant data in making a clinical judgment about the presence or absence of intellectual disability. 115 CMR 6.02(3)(b).

⁹ Chapter 226 of the Acts of 2014, An Act Relative to Assisting Individuals with Autism and Other Intellectual or Developmental Disabilities, <https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter226>. DDS has not yet issued final regulations to implement this law, but is accepting and processing applications pursuant to the new eligibility criteria contained in the statute.

¹⁰ Chapter 226 of the Acts of 2014, Section 26.

¹¹ Mass. Advocates for Children, The Autism Omnibus Law (PowerPoint) (Nov. 6, 2015).

¹² Mass. Advocates for Children, The Autism Omnibus Law (PowerPoint) (Nov. 6, 2015).

¹³ 115 CMR 6.06(1).

¹⁴ 115 CMR 6.06(1)(a). Generally, a child is considered to be domiciled in Massachusetts if one or both parents reside and intend to remain in Massachusetts permanently or for an indefinite period of time, unless the parent with sole custody is not domiciled in Massachusetts. 115 CMR 6.06(2)(a)(1). The regulation discusses other, less common, situations. 115 CMR 6.06(2)(a)(2) 7 (3).

¹⁵ 115 CMR 6.06(1)(b).

¹⁶ 115 CMR 6.06(1)(b).

¹⁷ 115 CMR 6.06(1)(c).

¹⁸ 115 CMR 2.01.