

Clarification Guidance Regarding the Children’s Waiver Home and Community Based Services (HCBS) Serious Emotional Disturbance (SED) Eligibility Determination Requirements

TO: Health Homes Serving Children (HHSC), HH Care Management Agencies, and Children and Youth Evaluation Services (C-YES)

RE: Documentation Requirements for the Serious Emotional Disturbance (SED) Target Population for Children’s HCBS Eligibility Determination

DATE: April 7, 2023

Purpose

This guidance is to provide clarification regarding the requirements for completing the Children’s Waiver HCBS Eligibility Determination for the Target Population of Serious Emotional Disturbance (SED) for Health Home Care Managers (HHCM) and C-YES.

Clarification

The HCBS Eligibility Determination for the SED, must meet three components:

- SED Target Population
- Risk Factors and
- Functional Criteria (through a subset of the CANS-NY items)

SED is not a diagnosis; it is a determination made by a Licensed Mental Health Practitioner/Licensed Practitioner of the Healing Arts (LPHA) based on the Office of Mental Health’s SED determination criteria. The HHCM/C-YES must have documentation of the SED determination within the child’s/youth’s case record to meet the HCBS Eligibility Determination for SED Target Population. The SED determination is valid for one year (12 months) and then needs to be renewed, if appropriate, for continued Health Home enrollment and to be utilized for the annual HCBS Eligibility Determination.

The [LPHA Attestation Form](#) is the required document to verify that children/youth meet the Risk Factor criteria for SED Target Population. The LPHA Attestation Form must ONLY be completed and signed by:

1. The clinician working with the child/youth, or
2. A clinician who has worked with the child/youth within the past year (12 months), or
3. A clinician who has been requested to conduct a comprehensive evaluation of the child/youth.

The LPHA Attestation Form is also needed for the annual HCBS Level of Care (LOC) re-assessment to demonstrate the child/youth continues to meet the required clinical and risk factors to receive HCBS.

As outlined during the [SED Target Population HCBS LOC Eligibility Determination Webinar](#) issued by the Department of Health (DOH) and Office of Mental Health (OMH) on April 4, 2023, the LPHA Attestation Form has always been required as part of the HCBS LOC Eligibility Determination process for the Children's Waiver and a needed component for HCBS enrollment for SED. The LPHA Attestation Form must also be accompanied by documentation of Risk Factors as outlined in the HCBS Waiver Enrollment Policy; all documentation must be maintained by the HHCM/C-YES in the child/youth's case record.

Compliance

Children/youth who are currently enrolled in HCBS but are missing the LPHA Attestation Form and/or SED Risk Factor documentation are currently out of compliance with HCBS Children's Waiver requirements. As such, Health Home Care Managers (HHCM)/C-YES must review documentation for SED members to ensure that an LPHA Attestation Form is active, in the member's case file, and that the UAS CANS-NY has been completed accurately. If no LPHA Attestation Form has been completed, then the HHCM/C-YES must **immediately** contact the Lead HH for coordination and must ensure that the member is currently connected to mental health services. HHCMs/C-YES must help to connect SED members with mental health services within the next 60 days if the member is not already receiving mental health services.

If the SED member does have an LPHA Attestation Form in the case record, but this Form was not completed by a clinician outlined in the requirements above and/or the member is not enrolled in mental health services, then the HHCM/C-YES should re-evaluate whether the member would continue to be at-risk of hospitalization or out-of-home treatment as the result of SED if HCBS are not received.

- A discussion with the member/family should occur if it is determined that the member is no longer at-risk of hospitalization or out-of-home treatment, and determine if disenrollment should be pursued.
- If the member will remain enrolled, the HHCM/C-YES must work with the member/family to properly connect the member to mental health services within the next 60 days and have proper documentation within the case record. If the member/family does not want to be connected to mental health services, then the HHCM/C-YES must discuss with the member/family the purpose of the HCBS Children's Waiver and potential disenrollment, as the member will not be able to meet SED HCBS Eligibility Determination upon re-assessment.

For children/youth in the SED Target Population who have an annual HCBS LOC Eligibility Determination reassessment in the next three months, the HHCM must ensure that the member has been referred and/or is connected to mental health services to facilitate the completion of the LPHA Attestation Form as required on the updated LPHA Attestation Form. HHCMs/C-YES should immediately reach out to the county Single Point of Access (C-SPOA) for assistance if they are experiencing difficulties with

connecting a member to mental health services and/or obtaining the appropriate signature on the LPHA Attestation Form. During the annual HCBS LOC Eligibility Determination reassessment for the SED Target Population, HHCMs/C-YES should also re-evaluate whether the member would continue to be at-risk of hospitalization or out-of-home treatment as the result of SED if HCBS are not received. HHCMs/C-YES should also discuss the purpose and process of the HCBS LOC Eligibility Determination re-assessment with the member/family and inform the member/family if they believe that HCBS SED criteria will not be met and whether the HCBS LOC Eligibility Determination should even be completed. If completed based upon the choice of the member/family, the HHCM/C-YES must explain the potential of not meeting eligibility criteria and disenrollment from the Waiver if mental health requirements are not met.

Please reach out to BH.Transition@health.ny.gov with any questions.