



Policy Title: **Initiating and Maintaining OPWDD ICF/IID Level of Care Eligibility Determination (LCED)**

Policy number: **CW0010**

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**Applicable to:**

This policy describes how to initiate and maintain the Office for People With Developmental Disabilities (OPWDD) Intermediate Care Facilities for Individuals with Intellectual and Developmental Disabilities (ICF/IID) Level of Care Eligibility Determination (LCED). This policy pertains to children and youth receiving Health Home Serving Children (HHSC) Care Management and/or Children's Waiver Home and Community Based Services (HCBS) who may:

1. Have or are suspected to have a diagnosis of Developmental Disability (DD),
2. Have been determined by OPWDD to have a Developmental Disability,
3. Have been or are currently determined to be OPWDD Eligible with ICF/IID LCED,
4. Have been determined or are currently determined by OPWDD to be Provisionally Eligible with ICF/IID LCED.

**Purpose:**

Health Home care managers (HHCM) and the Children and Youth Evaluation Services (C-YES) will ensure that children/youth enrolled in Health Home Serving Children and/or the Children's Waiver Home and Community Based Services (HCBS) are referred, obtain, and maintain OPWDD eligibility and/or Intermediate Care Facilities for Individuals with Intellectual and Developmental Disabilities (ICF-IID) Level of Care Eligibility Determination (LCED).

**Definitions:**

**Children's Liaison:** are the direct OPWDD Regional Office contact staff who track and assist with maintaining the OPWDD ICF/IID LCED for the Department of Health (DOH) Children's Waiver and the contact for HHSC regarding OPWDD services.

**Developmental Disability (DD):** the OPWDD eligibility review process determines if an individual has a developmental disability as defined by NY Mental Hygiene Law 1.03(22) and is eligible for supports and services. This determination must be made prior to an ICF/IID LCED determination. For the purposes of enrollment in the Children's Waiver (with a Developmental Disability), or enrollment into OPWDD's Waiver, the determination process is the same. OPWDD determines if a person is DD eligible and therefore eligible to receive OPWDD services.



**Developmental Disabilities Regional Offices (DDRO):** are the regional offices of OPWDD and are where the Children's Liaisons are located throughout the State.

**Intermediate Care Facilities for Individuals with Intellectual and Developmental Disabilities (ICF-IID):** is an optional Medicaid benefit that enables states to provide comprehensive and individualized health care and rehabilitation services to individuals to promote their functional status and independence.

**Level of Care Eligibility Determination (LCED):** is an eligibility tool used for the initial determination and annual redetermination that an individual meets the ICF/IID Level of Care.

**Home and Community Based Services/ Level of Care (HCBS/LOC):** is a tiered assessment where multiple factors must be met for child/youth's HCBS/LOC eligibility to be determined. To access Children's HCBS, a child/youth must meet target population, risk factors, and functional criteria as described in the Children's Waiver. The HCBS/LOC Eligibility Determination is housed within the Uniform Assessment System (UAS).

**Notice of Decision (NOD):** The determination that is issued to the child/youth/parent/guardian/legally authorized representative regarding their eligibility and their Fair Hearing rights.

**Plan of Care (POC):** the document outlining the enrolled child/youth's needs and the referred and monitored services to address those needs.

**Provisional Eligibility:** a determination of temporary eligibility for OPWDD services and supports until a child's 8<sup>th</sup> birthday that is predicated on the likelihood of a developmental disability, but allows for those situations where a named condition has not yet been diagnosed but the clinical presentation and adaptive limitations are all indicative of developmental disorder or condition.

**Procedure:**

The following outlines for Health Home Care Managers (HHCM) and the Children and Youth Evaluation Services (C-YES) the processes for:

1. Referring to OPWDD for initial DD Eligibility and ICF/IID LCED,
2. Maintaining Annual ICF/IID LCED Redeterminations,
3. Obtaining Children's Waiver HCBS/LOC Eligibility Determination for Target Populations of DD/Medically Fragile (MF) or DD and in Foster Care
4. Transitional Planning for youth at the age of 21 who have been determined DD eligible and have an ICF/IID LCED.

**Note:** The process for a child/youth to transfer between the Children's Waiver and the OPWDD Comprehensive Waiver can be found [here](#)



### 1. Refer to OPWDD for Initial DD and ICF/IID LCED Eligibility:

HHCM or C-YES should discuss with the child/youth/parent/guardian or legally authorized representative regarding a referral to OPWDD for children/youth who are suspected of having a developmental disability (DD). It is important to share information with the child/youth/parent/guardian or legally authorized representative the services and options that the child/youth may have, should they be determined by OPWDD to have a developmental disability. Referrals for children/youth to OPWDD who are in Children's Health Home and/or the Children's Waiver should be made to the appropriate DDRO Children's Liaison.

It is important to share that children/youth should have a determination from OPWDD sooner than later, especially if the child/youth is approaching late teen years, as establishing OPWDD Eligibility and an ICF/IID LCED can take several months. Transitional planning is encouraged to ensure the child/youth does not have an interruption in needed services.

Additionally, the child/youth/parent/guardian or legally authorized representative should be informed that the DD eligibility determination and subsequent ICF/IID LCED will require collecting and obtaining documentation, medical information, and/or assessments.

The child/youth must first be determined to have a developmental disability prior to obtaining an Intermediate Care Facilities for Individuals with Intellectual and Developmental Disabilities (ICF/IID) Level of Care Eligibility Determination (LCED). Children under the age of 8 years old can be determined to have provisional DD eligibility. A child has provisional OPWDD eligibility (based on early delays) until their 8th birthday when eligibility must be re-reviewed.

Subsequently, if at the age of 8 years old the child is no longer found to meet OPWDD eligibility, then the provisional determination of DD and ICF/IID LCED will expire.

#### Documentation needed for initial or expired ICF/IID LCED:

If a child/youth is seeking an initial ICF/IID LCED or if their ICF/IID LCED has expired, the following is required:

- Physical Examination completed by a physician, registered physician's assistant, or nurse practitioner within the past 365 days;
- Current Psychological Report that includes assessment of intellectual and adaptive functioning (most recently available psychological report may be used as long as it accurately reflects the child's current status). An Early Intervention Multidisciplinary Core Evaluation may be acceptable provided it includes standardized test scores relevant to cognitive, language and communicative, adaptive, social, and motor functioning and includes the participation of a school psychologist or licensed psychologist;
- Social Evaluation. This can be a copy of child's Plan of Care (POC), social/developmental history, psychosocial report or other report that provides information on social and developmental history/psychosocial status within the past 365 days; and
- For conditions other than intellectual disability, a medical or specialty report that includes health status and diagnostic findings to support the developmental disability diagnosis.

**Note:** Additional documentation, if needed, may be requested by the DDRO.



Additional information about the required documentation can be found here:

<https://opwdd.ny.gov/eligibility>

Children/youth who are determined to have a DD and ICF/IID LCED and do not access services from OPWDD can be determined eligible for the Children's Waiver and/or continue with Children's Waiver eligibility and HCBS. Accordingly, as noted, having the ability for the child/youth to be able to access services when it becomes necessary from either DOH or OPWDD is the advantage of identifying DD and ICF/IID LCED determinations earlier rather than later. Additionally, should the child/youth become ineligible for the Children's Waiver, having a current OPWDD ICF/IID LCED will assist them in getting quicker access to OPWDD services.

Although ICF/IID LCED initial eligibility and annual redetermination may not be required to participate under the Children's Waiver HCBS, *its **required** that regardless of the Target Population chosen during an annual Children's Waiver re-determination, that the child/youth's OPWDD ICF/IID LCED is maintained and renewed by child/youth/family's choice, if applicable.*

*For the Children's Waiver Target Populations of Developmental Disabilities (DD) and Medically Fragile (MF) and DD in Foster Care, the OPWDD ICF/IID LCED is part of the Children's Waiver HCBS eligibility determination to meet the Target Population requirements (as noted below #3).*

Obtaining, maintaining, and tracking OPWDD ICF/IID LCED is done through collaboration of the HHCM/C-YES with the DDRO Children's Liaison (CL).

## **2. Maintaining Annual ICF/IID LCED Recertification**

Once a child/youth has been determined to have a DD and ICF/IID LCED, the HHCM/C-YES must collaborate with the OPWDD Children's Liaisons (DDROs) to maintain the ICF/IID LCED on an annual basis regardless if the child/youth is currently utilizing OPWDD's services, unless the child/youth/parent/guardian or legally authorized representative chooses to not continue/pursue annual ICF/IID LCED. In these cases, the HHCM/C-YES must document in the case record that the choice was provided along with the information that a gap in service may occur with a lapse in LCED.

The maintenance of the annual ICF/IID LCED requires only update of information and far less time consuming, than if the ICF/IID LCED were to lapse, in which case a new Initial LCED will have to be completed. Additionally, should the child/youth need OPWDD's service array during this time, there would be a delay to access services due to the expired ICF/IID LCED.

If the child's/youth's ICF/IID LCED is not expired, the following documentation must be submitted to the DDRO Children's Liaison (CL) as part of the annual redetermination to maintain eligibility:

- Current general Medical Report;
- Copy of child's Plan of Care;
- Updated Psychological Report if there is a significant change in child's functioning; and



- Statement from Care Manager that the documentation required for the ICF/IID LCED redetermination remains valid and reflects the current needs of the child/youth.
  - The Children's Waiver Transmittal Form meets this statement/attestation requirement from the Care Manager or C-YES.

**Note:** Additional documentation, if needed, may be requested by the DDRO.

If the child/youth is determined eligible, the ICF/IID LCED redetermination must be completed and signed annually, not to exceed one year from the effective date of the initial ICF/IID LCED determination or from the signature date of the previous year's redetermination review. The ICF/IID LCED annual re-determination date may not align with the Children's Waiver date.

### **3. Children's Waiver Target Populations of DD/Medically Fragile or DD in Foster Care HCBS/LOC Eligibility Determination**

To obtain Children's Waiver Home and Community Based Services (HCBS) Level of Care (LOC) Eligibility Determination for the two Target Populations of DD/Medically Fragile or DD in Foster Care, the Health Home Care Manager or C-YES, will need to work with the OPWDD DDRO Children's Liaison (CL) to obtain the ICF/IID LCED determination prior to Children's Waiver eligibility and enrollment occurring.

The ICF/IID LCED eligibility determination is completed by the DDRO. The HHCM/C-YES assessor will work in collaboration with DDRO CL to provide supporting documentation and provide input needed to help complete the Children's Waiver HCBS/LOC Eligibility Determination. HHCM/C-YES should begin HCBS/LOC Eligibility re-determination a minimum of two (2) months prior to the due date. Additionally, HHCM/C-YES should be aware that the OPWDD LCED and Children's Waiver HCBS/LOC dates may not align.

*As part of providing care management and planning transitional care, HHCM/C-YES must ensure the OPWDD referral and determination is done well before the child's 21st birthday.*

#### **DD in Foster Care Target Population:**

Current children/youth and/or new enrollees who are in the DD in Foster Care target population must establish and maintain an ICF/IID LCED on an annual basis to continue receiving services in the Children's Waiver.

**For children/youth who are in foster care, it is important, that once determined DD in Foster Care, that this Target Population eligibility is maintained.**

Additionally, HHCM/C-YES must work in collaboration with the child welfare worker/Local Department of Social Services (LDSS) (upstate) and foster care case planner and Administration for Children Services (ACS) (downstate) regarding HCBS eligibility and services.

**Note:** For both initial determinations and redeterminations, if the child/youth resides in New York City, Administration of Children's Services (ACS) should be copied on this transmittal





using the following email address: [OCFH.Waiver@acs.nyc.gov](mailto:OCFH.Waiver@acs.nyc.gov)

**DD/Medically Fragile (MF) Target Population:**

For Children/youth who are Medically Fragile with a potential DD diagnosis, which has not yet been determined by the Office for People With Developmental Disabilities (OPWDD), the HHCM/C-YES are **encouraged** to access the Medically Fragile (MF) Target Population for HCBS/LOC eligibility determination in the UAS. Access through the Children's Waiver can be quicker to obtain eligibility and services.

**Note:** That for children/youth who were previously in the DD/MF target population (i.e., former OPWDD Care at Home Waiver children), they may utilize the MF target population workflow as this might ensure timely HCBS/LOC determinations and access to services. However, if the OPWDD LCED is maintained as required, and HHCM/C-YES begin Children's Waiver HCBS eligibility two months prior to the annual redetermination due date, then DD/MF should be able to be continued.

For MF Children's Waiver HCBS/LOC eligibility determination outcomes:

- If the child/youth **is not** found eligible for the Children's Waiver MF HCBS/LOC but may potentially have a DD condition, then the child should be referred to OPWDD for a determination of OPWDD Eligibility and the ICF/IID LCED for the OPWDD Comprehensive Waiver.
- If the child/youth **is** found eligible for the Children's Waiver MF HCBS/LOC, then to ensure the child has the choice to access State Plan services as well as HCBS services provided under the OPWDD Comprehensive Waiver when the child/youth chooses or once the child/youth ages out of the Children's Waiver, the child should also subsequently seek OPWDD Eligibility and ICF/IID LCED.
  - As part of providing care management and planning transitional care, Health Home Care Managers/C-YES must ensure this referral and determination is made for its MF children well before the child's 21st birthday.

Current children/youth and/or new enrollees who are in the **DD/MF** target population are required to establish or maintain the ICF/IID LCED, as there are important reasons why the ICF/IID LCED should be established/maintained for DD/MF children:

- If the child/family decides to transfer to the OPWDD Comprehensive Waiver at any point, the documentation needs to be up to date (maintained yearly to stay active);
- If the child/youth is aging out of the Children's Waiver, the documentation is up to date for the child/youth to quickly and appropriately transition to the OPWDD Comprehensive Waiver; and
- If ICF/IID LCED redetermination lapses (is not performed annually), then the child/youth needs to start the initial ICF/IID LCED eligibility process again.



The step-by-step process to coordinate Children's Waiver eligibility with OPWDD Children's Liaisons for the two target populations of DD/Medically Fragile or DD in Foster Care can be found in the [OPWDD Manual](#).

#### **4. Transitional Planning for Children/Youth Prior to the Age of 21**

The Children's Waiver transitional planning process begins when the child/youth reaches age 14 and includes assessing and developing the member's skills in self-determination, self-advocacy, and independent living tasks. The first discussion in transition planning with the child/youth includes what the member envisions for their future, helping the member start to identify their goals as they approach adulthood, and the resources needed to support the member's development toward those goals. The POC will be updated by the HHCM/C-YES to reflect these goals.

For children/youth who may have a suspected developmental disability and not already connected to OPWDD, ensuring connectivity to OPWDD and determining ICF/IID LCED eligibility is important to secure easier access to transition to OPWDD services if needed and necessary.

HHCM/C-YES will develop a formal transition plan when appropriate and no later than age 17. (See the HCBS Transitional Age Youth Policy)

Transitional planning should occur during the Interdisciplinary Team Meeting (IDT). When updating the Plan of Care (POC) during transition planning, it is important that the current care manager explains the various options, services, providers, and eligibility processes to the child/youth and their family and that the family makes an informed decision to transition to the OPWDD Comprehensive Waiver. Proper consent should be obtained from the child/youth/family while planning for transition, to ensure that the current care manager can share all the necessary information with the appropriate parties. If the family is interested in pursuing eligibility for the OPWDD Comprehensive Waiver, the DDRO Children's Liaison is the main point of contact for OPWDD.

The ICF/IID LCED form is used for the initial determination and annual redetermination (i.e., re-evaluation) for individuals seeking to access or maintain OPWDD Home and Community Based Services (HCBS) Waiver, Comprehensive Care Coordination, and other State Plan services. OPWDD HCBS Waiver services can only be provided to recipients who would otherwise require services consistent with the level of care provided in a Medicaid certified hospital, nursing facility or ICF/IID (42 CFR Section 441).

**Note:** If the child/youth has obtained ICF/IID LCED from OPWDD, if there is a need or request to transfer to OPWDD Comprehensive Waiver, this can be accomplished prior to aging out of the Children's Waiver as outlined in the [Transfer Process between Children and OPWDD Comprehensive Waiver](#).



## **Appendix A – Target Populations and Respective Risk Factors**

The Office for People With Developmental Disabilities (OPWDD) DDROs, in collaboration with the HHCM/C-YES, will complete the HCBS/LOC Eligibility Determination for children/youth that would meet DD MF and DD Foster Care Target Populations, including both new children/youth and annual re-determinations. The HHCM/C-YES will work with the family and other involved providers to gather the necessary documentation needed for the child/youth's record and HCBS/LOC Eligibility Determination. Further information regarding this process is located in the [OPWDD DDRO Manual Eligibility Process for Children's Waiver](#).

### **I. *Developmental Disability (DD)/Medically Fragile (MF) AND DD in Foster Care Target Population criteria:***

- Child/youth has a developmental disability as defined by OPWDD which meets one of the criteria a-c as well as criteria d, e, and f:
  - a) is attributable to intellectual disability, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia, Prader-Willi syndrome or autism; **or**
  - b) is attributable to any other condition of a child/youth found to be closely related to intellectual disability because such condition results in similar impairment of general intellectual functioning or adaptive behavior of a child/youth with intellectual disability or requires treatment and services similar to those required for such children; **or**
  - c) is attributable to dyslexia resulting from a disability described above; **and**
  - d) originates before such child/youth attains age 22; **and**
  - e) has continued or can be expected to continue indefinitely; **and**
  - f) constitutes a substantial handicap to such child/youth's ability to function normally in society

Once the Target Population criteria information has been obtained and documented, the **risk factors** must be noted with the supporting documentation obtained.

### **II. *Risk Factor***

#### **A. *Developmental Disability (DD) Medically Fragile***

The risk factor for the DD/MF target population is the completion of the Licensed Practitioner of the Healing Arts (LPHA) determination, "whether the child/youth, in the absence of HCBS, is at risk of placement in a more restrictive setting", with submitted written clinical documentation to support the determination.

After the Target Population and Risk Factor(s) have been determined, the **functional limitation** must be determined by answering a subset of CANS-NY questions within the UAS.

#### **B. *Developmental Disability (DD) in Foster Care***

The risk factor for the DD in Foster Care target population is the supporting documentation to determine foster care inclusion:

- The child/youth is currently in foster care placement **or**
- The child/youth was previously in foster care when enrolled in HCBS, without a break in HCBS

There is no other functional limitation determination that needs to be made for DD in Foster Care.





**Department  
of Health**

**Office for People With  
Developmental Disabilities**