



Frequently Asked Questions regarding the Medically Fragile (MF) Population Children’s Waiver Eligibility Determination

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Resources & Additional Questions

1. **Question:** Where is the April 6, 2023 Medically Fragile (MF) Population HCBS LOC Determination webinar recording and guidance posted?

Answer: They are posted on the Department of Health’s website for the 1915(c) Children’s Waiver and 1115 Waiver Amendments under “Eligibility.” You can access that site here: https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/eligibility.htm.

2. **Question:** Who can I contact with questions related to Children’s Waiver eligibility for the Medically Fragile Target Population?

Answer: Please reach out to BH.Transition@health.ny.gov with any specific questions. The State Disability Review Unit (SDRU) is also available for questions about disability documentation requirements at SDRU@health.ny.gov.

Initial HCBS Eligibility Determination

3. **Question:** After all the documentation is gathered and received, who approves/makes the initial determination that the child falls into the Medically Fragile Target Population? The HH/C-YES care manager?

Answer: Only the HH/C-YES care manager who is working directly with the child/youth/family can conduct the HCBS Level of Care (LOC) Eligibility Determination, whether initial assessment, significant life event assessment, or the annual re-assessment. All documentation gathered for the purpose of the HCBS LOC Eligibility Determination must be maintained in the case record. The HHCM/C-YES must complete the HCBS LOC within the Uniform Assessment System (UAS)

which has an algorithm that determines if the child/youth is eligible for HCBS based upon the information entered by the HHCM/C-YES.

- Question:** To clarify, an HCBS referral for newly eligible children/youth cannot be completed until the SSI Letter or DOH Disability Review Team Certificate is received or uploaded to the client's record?

Answer: HCBS referrals can be completed for any child/youth found eligible for HCBS by HHCM/C-YES. SSI Letter or Disability Review Team Certificate is not needed as part of the HCBS referral for the HCBS provider. To prevent delays in accessing the Children's Waiver, DOH 5151, DOH 5152 (if applicable), and DOH 5153 forms can be completed to meet the Medically Fragile (MF) or Medically Fragile portion of the Developmentally Disabled/Medically Fragile (DD MF) population for the initial Children's Waiver eligibility determination. The HH/C-YES must maintain all forms and supporting documentation in the child/youth's case record. If the initial HCBS Eligibility Determination is completed without an active SSI Certification or DOH Disability Review Team Certification (i.e., based on the DOH-5151, DOH-5152, and DOH-5153), the care manager must initiate the disability determination process no later than 120 days after enrollment in the Children's Waiver. Effective April 1, 2024, an SSI or SDRU disability determination is required for continued enrollment in the Children's Waiver under the MF or DD/MF target populations: if the child/youth is found to not meet the disability criteria and receives a denial from the SDRU/SSI, then the child/youth no longer meets the HCBS MF Target Population criteria and must be disenrolled from the Children's Waiver within 30 days from the date of the denial and be issued a Notice of Decision. Refer to the [Eligibility and Enrollment Policy](#) for additional details.

- Question:** Is DOH 5152 "Questionnaire of School Performance" still required if the child/youth is in Early Intervention or over 18?

Answer: DOH 5152 is not required for non-school age children. Only DOH 5151 and DOH 5153 would need to be completed for the initial HCBS eligibility determination for non-school age children. The SDRU will request any additional information, as necessary.

- Question:** If a child already has an SSI Certification or Disability Review Team Certificate on file and wants to enroll in the Children's Waiver, do they still need to complete the three forms (DOH 5151, 5152, and 5153)? What are the next steps?

Answer: If the child/youth has an SSI Certification or DOH Disability Review Team Certificate with valid coverage dates, then the HHCM/C-YES should move forward with completing the full HCBS Eligibility Determination requirements within the UAS. The HHCM/C-YES should double-check that the document has current coverage dates and should maintain a copy in the child/youth's file. The three forms (DOH 5151, 5152, and 5153) are not required in this situation because the child/youth already has the disability documentation for the HCBS eligibility determination.

Disability Determination

- Question:** What is the best way to request a current copy of the Disability Review Team Certificate?

Answer: To access a child/youth's existing certification and its dates of coverage, the Care Manager should ask the family for a copy to keep in the file. If the family does not have a copy, the member/family or Care Manager can email the State Disability Review Unit at SDRU@health.ny.com or contact the [Local Department of Social Services \(LDSS\)](#) where the child lives to request it. Although the HHCM/C-YES can help with requesting the Disability Review Team Certificate, the disability information will only be shared with the member. The HHCM/C-YES is encouraged to become the child/youth's [Medicaid Authorized Representative](#) to more easily communicate directly with the SDRU about the child/youth's disability status.

8. **Question:** What is the best way to request a current copy of the Supplemental Security Income (SSI) Certification?

Answer: Complete the steps for "Get Benefit Verification Letter" on the [SSA website](#). The parent/guardian/authorized representative will be able to download the certification letter after creating an online account for the child/youth or they can call the SSA automated telephone service at +1-800-772-1213 to request a copy.

9. **Question:** Will the SDRU send the Disability Review Team Certificate to the Local Department of Social Services (LDSS) and HHCM/C-YES?

Answer: No, the SDRU will no longer be sending out the Disability Review Team Certificate to the LDSS or HHCM/C-YES. The SDRU will only send the Disability Certificate to the child/youth and/or family/caregiver because it contains Protected Health Information (PHI). However, the SDRU will provide a disability letter to LDSS agencies, HHCMs, and C-YES that outlines the disability determination and effective dates, which is all the information necessary to demonstrate proof of Children's Waiver HCBS eligibility.

10. **Question:** Are there any available resources to share with families about the SSI process?

Answer: The SSA website has [Disability Starter Kits](#) and a [Benefits for Children with Disabilities handbook](#) which provide information on the SSI disability process. You can also read an overview on the [SSI for Children](#) webpage.

11. **Question:** What's OTDA, and what is the contact information for it?

Answer: OTDA is the Office of Temporary and Disability Assistance. This is the New York State Agency that coordinates with the Federal Social Security Administration regarding SSI Certification. You can contact OTDA's Division of Disability Determinations by email at NY.DD.PC3.CORRES@ssa.gov. OTDA can also assist families with applying for other types of assistance such as SNAP, HEAP, cash assistance and housing support. Visit otda.ny.gov to learn more.

12. **Question:** What does DOH consider as acceptable proof of SSI certification?

Answer: The [benefits verification letter](#) or any other SSA documentation that has the disability determination and valid coverage dates are acceptable proof of SSI. The SSI Certification referenced in the guidance is not a single specific form.

13. **Question:** If a family has SSI but does not have a copy of the initial letter, can we use the annual letter they receive stating what their payments will be?

Answer: Documentation must state that the member is certified disabled and must have effective dates for the annual letter to be used. The parent/guardian/legally authorized representative can request a new copy of the SSI certification by completing the steps on the [SSA website](#) or visiting their [local SSA office](#) (call first to make an appointment).

14. **Question:** What happens if a child/youth loses the financial benefits of SSI because of an income increase? Are they still considered disabled?

Answer: Possibly; however, information would need to be verified. If a child/youth loses SSI only because of income changes, they are still considered disabled, retain their Medicaid coverage for a period of time (a case is automatically opened to prevent a loss in coverage and to begin the eligibility renewal process), and can remain in the Children's Waiver. The parent/guardian/authorized representative will receive a letter explaining why SSI was lost (e.g., income increases or change in disability status). The Disability Review Team Certification through SDRU is not dependent on income.

15. **Question:** Do all children in the MF Target Population need to have a Disability Review Team Certificate for the next LOC determination? Is an SSI award letter no longer enough?

Answer: Effective April 1, 2024, either a Disability Review Team Certificate or an SSI Certificate is required for continued Children's Waiver enrollment for MF and DD/MF target populations. The SSI award letter meets this expectation if it has the disability determination and valid dates of coverage.

16. **Question:** Where can we find disability criteria for applying?

Answer: The disability evaluation criteria are the same for the SSA and for the SDRU. As the [SSA Blue Book](#) outlines, "Under title XVI, a child under age 18 will be considered disabled if he or she has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months." Part A ("Adult Listings") of the SSA Blue Book contains the medical criteria that apply to the evaluation of impairments in those aged 18+ and may apply to the evaluation of impairments in children under 18 if the disease processes have a similar effect on adults and younger children. Part B ("Childhood Listings") contains medical criteria that apply only to the evaluation of impairments in children under 18. This same information can also be accessed on the DOH website within the [Medicaid Disability Manual](#), Appendix I.

17. **Question:** Are electronic signatures allowed for the forms submitted to SDRU?

Answer: Yes, electronic signatures are permissible.

18. **Question:** When the Disability Review Team Certificate expires, are we collecting and submitting the three forms (DOH 5151, 5152, 5153) again?

Answer: The SDRU keeps track of the expected end dates for all children/youths' Disability Review Team Certificates. Prior to expiration, the SDRU will initiate the process for disability review and collect the required information for renewal. The HHCM/C-YES should be aware of the coverage dates on the child/youth's Disability Certificate and verify that the disability review is completed on schedule. The HHCM/C-YES are encouraged to become a child/youth's [Medicaid Authorized Representative](#) so they can easily communicate directly with the SDRU about the child/youth's disability status; this form can be submitted directly to the SDRU.

19. **Question:** Are some Medically Fragile children ineligible for a disability certificate?

Answer: Effective April 1, 2024, either a Disability Review Team Certificate or an SSI Certificate is required for continued Children's Waiver enrollment for MF and DD/MF target populations. If a child/youth has medical needs but does not meet the disability determination of SSI/Disability Review Team Certificate, then the child/youth is not eligible for continued enrollment in the Children's Waiver under the MF or DD/MF target populations. If already enrolled in the Children's Waiver and found ineligible for disability, then the child/youth must be disenrolled from the Children's Waiver within 30 days of the determination.

20. **Question:** If C-YES uses the three forms to get a child enrolled in HCBS, are they required to start the Disability Review Team/SSI process with the family, or will that be passed on to the Care Management Agency?

Answer: C-YES should submit these forms (DOH 5151, 5152 if applicable, and 5153) to the LDSS/SDRU, along with Medicaid application and HCBS LOC/Eligibility determination, to begin the process for the Disability Review Team Certificate within 120 days of the Children's Waiver Eligibility Determination. If the child/youth opts out of C-YES after being determined Medicaid-eligible, then the HHCM should verify the process was started and follow through with ensuring disability determination for ongoing waiver enrollment and the annual Children's Waiver eligibility redetermination.

21. **Question:** Can OPWDD eligibility that is not being utilized at the time (code 95 on Medicaid) show proof of disability?

Answer: No, the child/youth must have an SSI Certification or a Disability Review Team Certificate on file.

Managed Care Organization (MCO) Coordination

22. **Question:** What role does the Medicaid Managed Care Plan (MMCP) have in this process?

Answer: MMCPs do not have a specific role in this process but should be aware that members in the MF and MF/DD Target Populations also have a corresponding disability determination on file.

23. **Question:** Do MMCPs need to ensure all these forms are completed prior to doing the review and making a determination?

Answer: MMCPs are reviewing and determining service authorization after a child/youth is found eligible and referred to an HCBS provider. MMCPs are not responsible for completing any of these forms, and are not required to maintain this information as part of review. However, MMCPs should be aware that members considered MF also have a corresponding Disability Determination on file.

24. **Question:** Would we go through LDSS for disability review if there is an MMCP?

Answer: Yes. A request for a disability referral to the State Disability Review Unit must go through the child/youth's LDSS regardless of enrollment with a MMCP. The LDSS will send the disability referral to the State Disability Review Unit. The only exception is for Medically Fragile children/youth in foster care; the SDRU will accept disability referrals directly from HHCMs/C-YES only for children/youth in foster care.

Local Department of Social Services (LDSS) Coordination

25. **Question:** Are the LDSS aware of this guidance and the potential influx of disability referrals?

Answer: Yes, the LDSS are aware of this process; the SDRU will work with them to resolve any issues.

26. **Question:** Can you please provide a contact list for the LDSS?

Answer: The LDSS contact list can be found on the [DOH website](#) or the [New York Public Welfare Association website](#). There is not a list with specific individuals related to this process; the child's/youth's worker should be contacted. If no worker is assigned to the child/youth at the LDSS, a member of the Medicaid Unit at the LDSS can be contacted.

27. **Question:** Who should the HHCM/C-YES contact if they're having trouble receiving a disability referral from the LDSS or identifying the right person to request it from?

Answer: Please email the State Disability Review Unit at SDRU@health.ny.com; they can help connect to the correct person and resolve issues.

28. **Question:** Is there a form or suggested template for submitting the disability referral request to the LDSS?

Answer: There is no required form for requesting the disability referral. The information that the HHCM/C-YES is encouraged to submit in the request is: child/youth's name, address, contact information, authorized representatives, a description that the child/youth is applying for the

HCBS Children’s Waiver and is requesting that a disability referral be submitted to the SDRU. If already completed, the HHCM/C-YES is encouraged to also submit the [Disability Review Forms](#) with this request. You can learn more about the Local District’s responsibilities in Part C of the [Medicaid Disability Manual](#). You can contact the SDRU with any questions or concerns during this process.

29. **Question:** Is the disability referral process the same if children/youth are 18+?

Answer: Yes, it is the same referral process with the LDSS; however the forms are slightly different. The [Adult Disability Packet](#) includes the forms that the SDRU will request.

30. **Question:** Is the disability referral process the same for children/youth in foster care?

Answer: No, children/youth in foster care do not need a disability referral from the LDSS. The SDRU will accept disability referrals directly from the HHCM/C-YES for children/youth who are in foster care. All other children/youth are still required to contact the LDSS and request a disability referral be sent to the SDRU.

Expiration, Denials, and Appeals Process

31. **Question:** What happens if the three forms (DOH 5151, 5152—if applicable, and 5153) were used for the initial HCBS/LOC assessment and then the child/youth is denied SSI? Does HCBS end immediately?

Answer: Effective April 1, 2024, if a child was initially enrolled in the Children’s Waiver in a MF Target Population on the basis of the three forms and is later denied a disability determination, then the member must be disenrolled from the Children’s Waiver within 30 days from the issuance of the denial. The HHCM/C-YES should educate the member/family ahead of time when requesting SSI or Disability Review Team Certificate what will happen if denied. Additionally, the HHCM/C-YES must notify all Care Team members of the disenrollment and must send the [Notice of Decision \(NOD\)](#) to the member/family. The HHCM/C-YES must also notify NYS Capacity Management regarding the removal of the K-code. If the child was denied based on income status and not disability, they should reach out to the SDRU (SDRU@health.ny.gov) or OTDA (NY.DD.PC3.CORRES@ssa.gov) for assistance with next steps.

32. **Question:** If a child/youth receives an SSI/SDRU disability denial and appeals the decision, can they remain in the Waiver while the appeal is pending?

Answer: This varies depending on the status of the child/youth’s enrollment.

Effective April 1, 2024, for children/youth that previously only had DOH 5151, 5152 (if applicable), and 5153 on file from their initial HCBS eligibility determination and receive a denial after their first application to SSI/SDRU, the HHCM/C-YES must send a Notice of Decision notifying the member/family that the child is no longer eligible for HCBS. The member/family can request a Fair Hearing with Continued Aid to continue HCBS while the Fair Hearing is pending. At the same time, the member/family can appeal the disability determination. Appealing a disability determination alone is not enough to stay enrolled in the Children’s

Waiver as the member never had a disability determination. The HHCM/C-YES should communicate the status of any related appeals to the child/youth's HCBS provider and share documentation as appropriate.

If a child/youth with a disability determination receives notice that they no longer qualify and appeals the decision, then the member is still considered disabled until the appeal is completed and can remain in the Children's Waiver. Children/youth with Medicaid coverage also retain their Medicaid eligibility during this process. The HHCM/C-YES must maintain documentation that an appeal of the disability determination was filed. There are resources available on the SSA website to learn more about the appeals process, including the [Request for Reconsideration](#) and a guide on [Your Right to Question the Decision Made on Your Claim](#). The HHCM/C-YES should communicate the status of any related appeals to the child/youth's HCBS provider and share documentation as appropriate.

33. **Question:** If someone's Disability Review Team Certificate expires before I can work with the family to renew it, what do I do?

Answer: It is the responsibility of the HHCM/C-YES to remain mindful of the authorization dates on the SSI Certification or the Disability Review Team Certificate and assist the member/family in re-certification prior to the expiration date, so that the child/youth can remain in the Children's Waiver, if appropriate. The State Disability Review Team monitors when NYS Medicaid disability determinations will expire and will reach out to the member/family ahead of time to renew the disability determination if appropriate.

Timeline

34. **Question:** After the April 1, 2024 deadline, can the three forms continue to be used for initial LOC assessments?

Answer: Yes, the three forms (DOH 5151, 5152—if applicable, and 5153) can continue to be used for the *initial* HCBS LOC assessment only. The child/youth will need a disability determination on file for continued enrollment and the annual redetermination.

35. **Question:** On average, how long does the disability review process take after the required documentation has been obtained and submitted?

Answer: The Disability Review Team Certificate process takes 2-3 months on average; however, this may fluctuate with any influx of requests to LDSS/SDRU. The SSI process takes 3-5 months on average.

36. **Question:** What do you advise if children/youth have their annual HCBS eligibility redetermination coming up and only have the three forms (DOH 5151, 5152, and 5153) on file?

Answer: HHCM/C-YES must initiate the SSI Certification or DOH SDRU disability determination process no later than 120 days after enrollment in the waiver. Care managers that have not done so must immediately submit the three forms (DOH 5151, 5152, and 5153) to the LDSS and request a disability referral. If the disability determination has not yet been made when the HCBS re-assessment is due, then the three forms (DOH 5151, 5152, and 5153) may be utilized to

complete the HCBS re-assessment for the MF Target Population until April 1, 2024, but the disability determination process must still be initiated.

37. **Question:** If a Disability Review Team Certificate is still in process or if an updated SSI letter hasn't been received by the time LOC renewal comes due after April 1, 2024, should the member be disenrolled from the waiver and then reenrolled once the form is received?

Answer: All HCBS Eligibility Determinations must have all supporting documentation at the time the assessment is conducted. Effective April 1, 2024, if neither a Disability Review Team Certificate nor an SSI Letter is available at the time the annual Children's Waiver Eligibility Determination is due, the child will no longer meet eligibility criteria and must be disenrolled from the Waiver. If at a later date, the child obtains a Disability Review Team Certificate or an SSI Letter, a new HCBS Eligibility Determination can be conducted.

38. **Question:** If the last HCBS LOC was done on 7/1/2023, do we have until 7/1/2024 to have a disability determination on file?

Answer: The HCBS LOC Redetermination is due no later than 365 days from the previous HCBS LOC Eligibility Determination. HHCM/C-YES must initiate the SSI Certification or DOH SDRU disability determination process no later than 120 days after enrollment in the waiver.

39. **Question:** If a child/youth has an annual HCBS reassessment due prior to April 1, 2024 and does not have a Disability Determination on file, must they be disenrolled from the Waiver?

Answer: No. The three forms (DOH 5151, 5152, and 5153) can continue to be used for re-determinations until April 1, 2024. HHCM/C-YES must initiate the SSI Certification or DOH SDRU disability determination process no later than 120 days after enrollment in the waiver. For additional information refer to [2023-10-31 deadline ext med frag child.pdf \(ny.gov\)](#) and the [Eligibility and Enrollment Policy](#).

40. **Question:** For children/youth that enroll in the Children's Waiver for the first time in the next few months, are they required to have a Disability Review Team Certificate or SSI Certificate on file by April 1, 2024?

Answer: No. For children/youth who are determining initial HCBS eligibility and enrollment who do not have an active SSI Certification or DOH Disability Review Team Certificate on file but are in immediate need of HCBS, the three forms (DOH 5151, 5152, and 5153) can be completed to determine the initial (first time) HCBS eligibility, to prevent delays in accessing the Children's Waiver. HHCM/C-YES must initiate the SSI Certification or DOH SDRU disability determination process no later than 120 days after enrollment in the waiver. Effective April 1, 2024, an SSI or DOH SDRU determination is required for ongoing Children's Waiver enrollment; therefore, if a child is determined to not meet the disability criteria and receives a denial from the SDRU/SSI, then the child/youth no longer meets the HCBS MF Target Population criteria and must be disenrolled from the Children's Waiver within 30 days from the date of the denial, or by April 30, 2024, whichever is later.

Family of One/Other Questions

41. **Question:** Do Family of One children who are not interested in HCBS still need to complete the disability determination process since their service is care management?

Answer: If a child/youth obtained Medicaid due to their HCBS Children's Waiver eligibility under the MF or DD/MF Target Populations, then they must have a disability on file to continue to meet the MF or DD/MF Target Populations regardless of the services they utilize. They first must meet HCBS eligibility to continue to meet Family of One criteria for Medicaid eligibility. The Family of One Target Population will still need the disability determination outlined in the [Guidance Regarding Medically Fragile Disability Determinations for the Children's Waiver HCBS](#).

42. **Question:** Does the Medically Fragile population still require the Licensed Practitioner of the Healing Arts (LPHA) Attestation Form?

Answer: No. [As of April 2022](#), the LPHA Attestation Form is no longer required for the Medically Fragile and Developmentally Disabled/Medically Fragile (DD/MF) populations.