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**2.01 INTRODUCTION**

This rule applies to the Department of Health and Human Services’ (the Department) process to apply for Developmental Disability Services at the Office of Aging and Disability Services (OADS). Developmental Disability Services are available for individuals with an Intellectual Disability and/or Autism Spectrum Disorder who are found eligible under this section. Targeted services, which include state-funded case management and crisis services, are available upon application and a determination of eligibility, consistent with Title 34-B M.R.S. § 5467.

Eligibility for MaineCare services is established through separate procedures outlined in the MaineCare Eligibility Manual, which is 10-144 C.M.R. ch. 332.

**2.02 DEFINITIONS**

1. Adaptive Behavior:The effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of their age and cultural group.
2. Adaptive Behavior Scale Test: Theassessment used to measure level of Adaptive Behavior. Developmental scales used to measure level of Adaptive Behavior that are acceptable to the Department include, but are not limited to, the following:
	1. The American Association on Mental Deficiency Adaptive Behavior Scales;
	2. Vineland Social Maturity Scale;

* 1. Fairview Developmental Scale;
	2. Callier-Azusa Scale; or
	3. The Alpern-Boll Developmental Profile.

For the purposes of this rule, the Adaptive Behavior Scale Test must be completed by a licensed clinical social worker, psychologist, psychiatrist, or other clinical professional with a minimum of two years of experience working with individuals with Intellectual Disabilities or Autism whose license includes the ability to administer such tests. The Adaptive Behavior Scale Test must be completed no earlier than two years before the date of the application for Developmental Disability Services.

1. Adult: An individual aged 18 years or older.

1. Advocate: An employee of Maine’s Protection and Advocacy Agency, unless an Applicant has designated another individual or organization to be the Advocate, in which case it is that person.
2. Applicant: An individual who has applied for services in conformance with this rule.
3. Autism Spectrum Disorder: Autism Spectrum Disorder, or “Autism” as defined by 34-B M.R.S. § 6002, is a neurodevelopmental disorder characterized by:
	1. Symptoms that typically present in the early Developmental Period; and

* 1. Result in clinically significant impairment in social, occupational, or other areas of functioning, including:
		+ 1. Deficits in social communication and social interaction; and
			2. Restricted repetitive behaviors, interests, and activities
1. Case Manager: Department of Health and Human Services case management staff, community case management staff, or other persons responsible for coordinating and/or monitoring the planning process and services for an individual with Autism Spectrum Disorder or an Intellectual Disability.
2. Comprehensive Evaluation:An evaluation conducted on an Applicant by a licensed physician, licensed clinical psychologist, or licensed psychological examiner, which includes a consideration of physical, emotional, social, and cognitive factors.
3. Deficit in Intellectual Functioning: An individual’s intelligence quotient that is more than two standard deviations below the mean score (approximate I.Q. score of 70) as measured by one or more of the following individually administered General Intelligence Tests:
	1. Wechsler Adult Intelligence Scale;

* 1. Stanford-Binet Intelligence Scale;
	2. Other comparable test acceptable to the Department.
1. Department:The Maine Department of Health and Human Services.
2. Developmental Period: The period between birth and age twenty-two (22).
3. Developmental Disability Services: State-funded services provided by the Office of Aging and Disability Services to eligible Adults with an Intellectual Disability or Autism Spectrum Disorder.
4. Diagnostic and Statistical Manual of Mental Disorders: The current edition of the publication of the American Psychiatric Association used to classify mental health disorders.
5. General Intelligence Test: An individually administered test used to determine a person’s level of intelligence by measuring their ability to solve problems, form concepts, reason, acquire detail, and perform other intellectual tasks.
6. Intellectual Disability: A disorder as defined in 34-B M.R.S. § 5001 and diagnosed in accordance with Diagnostic Criteria set forth in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* (American Psychiatric Association) that manifested during the Developmental Period.
7. Office of Aging and Disability Services (OADS): The designated office within the Department that supports the needs of individuals with an intellectual disability or autism spectrum disorder.
8. Person Centered Service Plan: The plan developed as a result of a process where the needs, goals and desires of each person who has an Intellectual Disability or Autism Spectrum Disorder are identified, and strategies are developed to address those needs, goals and desires with as much involvement of the person as possible.
9. Protection and Advocacy Agency: The designated organization that represents people whose rights have been violated or who have been discriminated against based on their disability.

**2.03** **DEVELOPMENTAL DISABILITY SERVICES**

The Department provides Developmental Disability Services to Adults who have applied for and have been offered services in accordance with the application process described in this chapter. The application process also confirms the diagnosis of an Intellectual Disability or Autism Spectrum Disorder. Services include, but may not be limited to, the following:

1. State-funded case management services; and

2. Crisis services.

* 1. **APPLICATION FOR DEVELOPMENTAL DISABILITY SERVICES**

An application for Developmental Disability Services must be initiated by submitting an application package to an OADS regional office. Except for referrals identifying a possible need for Adult Protective Services, the Department shall only accept applications to which the Applicant or Applicant’s guardian has consented.

1. Application Package

The application package includes the following elements:

1. Completed application form, utilizing the form provided by OADS for this purpose, available at [www.maine.gov/dhhs/oads](http://www.maine.gov/dhhs/oads).
2. Completed Comprehensive Evaluation;
3. Completed Adaptive Behavior Scale Test;
4. Completed General Intelligence Test or comparable test; and
5. Any other relevant assessment such as psychosocial evaluations or individualized education plans (IEPs).

If a recent Comprehensive Evaluation, Adaptive Behavior Scale Test, or General Intelligence Test is not available, either Department staff or the Applicant’s Case Manager shall make a referral to the appropriate OADS regional office for completion of these items.

By submitting an application, the Applicant attests that the information included in the application is accurate.

The Department reserves the right to request additional information from the Applicant, including but not limited to additional assessments, and/or independently to order additional evaluation or testing of the Applicant for the purpose of determining Applicant’s eligibility for Developmental Disability Services. The Department may deny the application if Applicant fails reasonably to participate in such additional assessment, evaluation, or testing.

1. Department Action

A. Within ten (10) days of receiving an application, Department staff shall schedule an appointment for an initial visit with the Applicant. The Applicant will select the location of the visit with the option for it to be conducted via video teleconference. The purpose of this initial visit is to provide an overview of Developmental Disability Services, answer questions, and review the application timeline.

B. The Developmental Disability Services team will assist the client throughout the application process as needed.

1. Eligibility Determination

The Department shall determine if an Applicant is eligible for Developmental Disability Services based on the following criteria:

1. Intellectual Disability

An Applicant is eligible for Developmental Disability Services for an Intellectual Disability if:

1. They have a Deficit in Intellectual Functioning;
2. They scored at least two standard deviations below the mean for neurotypical age peers, or otherwise fall within a similar normative classification of Intellectual Disability as defined by an Adaptive Behavior Scale Test;
3. Their functional deficit(s) manifested during their Developmental Period; and
4. Their functional deficit(s) is / are directly related to their identified intellectual impairments.
5. Autism Spectrum Disorder

An Applicant is eligible for Developmental Disability Services for Autism Spectrum Disorder if:

1. They have Autism Spectrum Disorder as defined in § 2.02-6, above;

1. They scored at least two standard deviations below the mean for neurotypical age peers, or otherwise fall within a similar normative classification of Autism Spectrum Disorder as defined by an Adaptive Behavior Scale Test;
2. Their functional deficit(s) manifested during the Developmental Period; and
3. Their functional deficit(s) is / are directly related to their Autism Spectrum Disorder.

4. Notice of Eligibility Determination

The Department shall notify the Applicant or the person acting on the Applicant’s behalf of the eligibility determination.

If the Applicant is found eligible for Developmental Disability Services, the Department shall initiate services as described in § 2.04-5, below.

If an Applicant is not eligible for Developmental Disability Services, their notice shall state both the reason for the denial and the Applicant’s opportunity to appeal that decision. The Department shall also provide oral notice to the Applicant if they were unrepresented during the application process. Notices regarding eligibility for services under this section will include information about Maine’s Protection and Advocacy Agency.

The Department will notify Maine’s Protection and Advocacy Agency when applicants are found ineligible for Developmental Disability Services under this section. Such notice shall include the reason the applicant is found ineligible.

1. Initiation of Services

If an Applicant is eligible for Developmental Disability Services, the Department shall:

1. Initiate case management assignment; and
2. Develop the Applicant’s Person-Centered Service Plan within forty-five (45) days of the date of determination of eligibility. The Plan may include information gathered during the application process.
3. Reapplication

An Individual may reapply for Developmental Disability Services if the Department finds them ineligible under this section only if new information becomes available regarding the individual’s developmental disability, and that new information demonstrates that the Individual’s disability manifested during their Developmental Period.

**2.05** **APPEALS**

1. Right to Appeal

If an Applicant is found ineligible for Developmental Disability Services under this section, the Applicant or their appointed representative may appeal this finding with the Department. Any timely oral or written statement made by or on behalf of the Applicant to an OADS Intake Specialist, Resource Coordinator, or Program Administrator shall constitute a request for a fair hearing with the Division of Administrative Hearings.

The Department shall acknowledge receipt of a request for a hearing in writing within five days of receipt.

2. Department Right to Request Dismissal

The Department may request that the Division of Administrative Hearings deny or dismiss a request for a hearing when, without limitation:

A. The request for hearing was untimely;

B. The Applicant has filed a new application under this section;

C. The Applicant has received a funded offer of MaineCare HCBS waiver services;

D. The Applicant or their representative has withdrawn the request for hearing;

E. The sole issue for hearing is the result of a change in applicable State or Federal law; or

F. The appellant has abandoned their appeal. Abandonment occurs, without limitation, when the appellant fails to appear at the hearing either in person or through a representative without a reason acceptable to the Hearing Officer.

3. Timeliness Standard

1. The ineligible Applicant or their representative must submit their notice of appeal to the nearest Department regional office within sixty (60) days of the date of the eligibility determination. If the Department served such eligibility determination on the Applicant or their representative by U.S. Mail, the deadline for the Applicant’s notice of appeal is automatically enlarged by an additional two days. The Department may grant an extension for the notice of appeal if a request for same is received by the Department prior to the expiration of the original deadline for the notice of appeal.

**2.06 CONFIDENTIALITY**

The Department of Health and Human Services, in accordance with state and federal law, must maintain the Applicant’s protected health information in a manner which will ensure that access to and dissemination of this information is restricted to persons or agency representatives who are subject to standards of confidentiality comparable to those of the Department.

In the absence of a court order, a written release executed by or on behalf of the Applicant on a form issued for that purpose by the Department is required before the Department may share Applicant’s protected health information. Such written release of information is valid for one year unless otherwise specified. The release of information must specify the information to be released and to whom it may be released.

STATUTORY AUTHORITY:

22 M.R.S. § 42(1); 22-A M.R.S. § 205; 34-B M.R.S. §§ 5432, 5465, 5467, and 6003

EFFECTIVE DATE (NEW): April 21, 2025 – filing 2025-090 (formerly 14-197 C.M.R. ch. 3 (Repealed, filing 2025-089))