

SUBCHAPTER 71M – COMMUNITY LIVING SERVICES

10A NCAC 71M .0101 SPECIAL ELIGIBILITY REQUIREMENTS

In addition to basic eligibility requirements, it must be documented that the individual is either mentally retarded or severely physically disabled.

(1) For purposes of defining and classifying mental retardation, the criteria of the American Association on Mental Deficiency shall be employed. The diagnosis of mental retardation shall be determined by a duly licensed physician, psychiatrist, practicing psychologist, or a psychological associate under the supervision of a psychiatrist or practicing psychologist; each of the former shall have expertise in the area of mental retardation. Documentation verifying a diagnosis of mental retardation by specified appropriate professionals shall be obtained by local departments of social services for certification of eligibility for services. A signed statement shall contain the level of retardation that best describes client functioning. For purposes of determining initial eligibility for community living services, documentation of a prior diagnosis of mental retardation is acceptable if it were determined and undersigned by any of the persons stipulated in this Subsection. Re-evaluation of mental retardation is not required unless there is reason to believe that the condition has changed or suspected to have been diagnosed erroneously. There may also be a need for an evaluation more complete than the initial one in order to determine the most appropriate services for the client. Documentation of mental retardation shall include behavioral descriptions as well as levels of intellectual and adaptive functioning as determined (if at all and to any degree possible) by standard tests.

(a) The American Association on Mental Deficiency defines mental retardation as "significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." "General intellectual functioning" refers to results obtained by assessment with one or more of the individually administered general intelligence tests developed for that purpose, i.e., a standardized individual intelligence test. "Existing concurrently with" emphasizes the two-dimensional nature of the definition -- significantly subaverage intellectual functioning, and deficits in adaptive behavior. "Significantly subaverage" refers to performance which is more than two standard deviations below the mean of a standardized general intelligence test. This is a guideline rather than a rigid limit since assessment of IQ is subject to some variation because of technical factors. The judgment of a qualified professional (as defined in this Rule) is required to determine the validity of a given test score. A significantly subaverage IQ is a necessary, but not alone sufficient, condition for a diagnosis of mental retardation. "Adaptive behavior" is the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his age and cultural group. It is a product of the interactions of an individual's abilities and skills with the expectations of society and of the opportunities to learn. Deficits are difficult to measure precisely and the rating scales from which levels are inferred show lower reliability than measurements of intelligence. The judgment of a qualified professional (as defined in this Rule) that the diagnostic criteria are met is required for each individual. "Developmental period" is defined as the period of time between birth and the eighteenth birthday.

(b) Generally accepted classifications of mental retardation are as follows:

- (i) Mild mental retardation is used to describe the degree of mental retardation present when intelligence testing scores range between two and three standard deviations below the norm (52 to 67 on the Stanford-Binet and 55 to 69 on the Wechsler Scales); many educable retarded individuals function at this level; such children usually can master basic academic skills while adults at this level may maintain themselves independently or semi-independently in the community.
- (ii) Moderate mental retardation is used to describe the degree of mental retardation when intelligence testing scores range between three and four standard deviations below the norm (36 to 51 on the Stanford-Binet and 40 to 54 on the Wechsler Scales); many trainable individuals function at this level; such persons

- usually can learn self-help, communication, social, and simple occupational skills but only limited academic or vocational skills.
- (iii) Severe mental retardation is used to describe the degree of mental retardation when intelligence testing scores range between four and five standard deviations below the norm [20 to 35 on the Stanford-Binet and 25 to 39 on the Wechsler Scales (extrapolated)]; such persons require continuing and close supervision but may perform self-help and simple work tasks under supervision.
 - (iv) Profound mental retardation is used to describe the degree of mental retardation present when intelligence testing scores are more than five standard deviations below the norm [19 and below on the Stanford-Binet and 24 and below on the Wechsler Scales (extrapolated)]; such persons require continuing and close supervision but some persons may be able to perform simple self-help tasks; profoundly retarded persons often have other handicaps and require total life support systems for maintenance.
- (2) The existence of a severe physical disability must be established on the basis of a professional diagnosis by a person or authority competent to make such a diagnosis. For purposes of determining initial eligibility, documentation of a diagnosis of severe physical disability made within the past 12 months is acceptable. The continuing existence of a severe physical disability must be re-documented at least every 12 months. Disabled means unable to engage in any substantial gainful activity by reason of a medically determinable physical impairment which can be improved, corrected, or ameliorated but which can be expected to last, or which has lasted, for a continuous period of not less than 12 months. Specifically, severe physical disability means a person:
- (a) who has a severe physical disability which seriously limits his functional capabilities, or
 - (b) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunctions, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and end stage renal disease, and
 - (c) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.

*History Note: Authority G.S. 143B-153;
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