

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.

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 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 20, 2017.

10A NCAC 71M .0102 METHODS OF SERVICE PROVISION

Community living services shall be provided directly or may be purchased through contractual arrangements.

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10A NCAC 71M .0103 CRITERIA

- (a) The client must be at a developmental level which will permit appropriate utilization of services.
- (b) Individualized treatment plans shall be formulated, recorded, and updated by the service provider.
- (c) When the service is purchased, a progress report on each client shall be sent to the county department of social services at the time of recertification.
- (d) If the service is offered in conjunction with other programs in either institution or community, activities of the clients, personnel, and program expenditures shall be recorded so that reimbursements from Social Services Block Grant (Title XX) of the Social Security Act are identifiable and justifiable.

- (e) A community facility housing the service shall meet safety, sanitation, and staffing requirements approved by the Department of Health and Human Services for adult developmental activities programs.
- (f) All intrinsic elements identified in the service must be offered to clients as needed and appropriate to the particular person. All elements identified in the primary service definition as optional may be provided at the option of the provider.
- (g) Even though the community living services program may be housed in the facility of another service program, it shall have its own service providers and provide them direct supervision and professional direction.
- (h) The service must be provided for reasons specified in the definition and must be based on the individual needs of the client who cannot function independently in social situations.
- (i) Periodic evaluation of the client and of the program must occur.
- (j) There must be ongoing staff development for service providers.
- (k) By virtue of special training, caregivers must be capable of providing community living services.
- (l) Remedial services shall focus on highly specific, limited portions of behavior for the purpose of correcting, overcoming, or adjusting to difficulties in functioning.
- (m) Any work activity training provided shall focus on those things which prepare an individual for employment. Employment itself is not considered work activity training.
- (n) When speech therapy is offered, it shall be based on an individualized plan for the client designed by a speech therapist, which assists in the learning and development of appropriate speech and language patterns.
- (o) When physical therapy is offered, it shall be based on an individualized plan for the client designed by a physical therapist, which assists in the learning and development of fine and gross motor skills.

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10A NCAC 71M .0104 LIMITATIONS

- (a) The enrollment plan of a client in a non-institutional community living services program shall be based on the individual needs and capabilities of the client for participation in the variety of activities contained in the service definition. The enrollment plan and the basis for the plan shall be documented in the individual client record maintained by the community living services program. In order to accommodate the range of individual enrollment needs, non-institutional community living services programs shall be required to operate a minimum of six hours per day, five days per week.
- (b) Client work participation and other habilitative activities shall be based on individual needs as determined by comprehensive evaluation to establish individual objectives in all service elements. Provided they are habilitative, work activities can range from none to a full day. All work and other habilitative activities shall be based on a comprehensive and individual evaluation that establishes individual objectives in all elements included in the service and shall be relevant to client needs identified in the evaluation. Program generated income can be used for wages. Reimbursement for service provision under Social Services Block Grant (Title XX) of the Social Security Act is discontinued when earnings from work activities exceed one-half the federal minimum wage for two consecutive months.
- (c) Medical expenses cannot be budgeted for in this service.
- (d) Transportation can be included as a program cost only when it is necessary to provide services, i.e. make it possible for clients to participate in program related activities. All costs of transporting clients to and from the services program are considered as transportation costs rather than program costs.
- (e) Under no circumstances may a fee be assessed for an intrinsic element of the primary service. Fees for optional elements and for transportation may be assessed if no portion of these costs are included in the purchased rate.
- (f) No optional elements nor the optional component of this service can be contracted for separately under Social Services Block Grant (Title XX) outside the purchase rate established for the individual facility.
- (g) Staff members of community living services programs may act as liaison between the programs and other community resources but shall not provide direct services not included in the service definition.
- (h) Reimbursement for client participation cannot be made for enrollment in more than one community living services program at the same time.

(i) When a client has benefited from community living services to a degree of adequate functioning in social situations (e.g., is employable in a structured situation), he shall be discharged from the program and transferred to one more appropriate.

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