

Eligibility and the Appeals Process

Board of Directors' Training
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Overview

Eligibility

- Early Start (birth to turning 3) and services available
- Provisional (ages 3 to turning 5) and services available
- Lanterman (age 3*-lifetime*) and services available
- Additional supports available to families

Appeals Process

- Informal Meeting
- Mediation
- Fair Hearing

* WIC 4512(a) (1) "Developmental disability" means a disability that originates before an individual attains 18 years of age, continues, or can be **expected to continue, indefinitely**, and constitutes a substantial disability for that individual.

RCOC Facts and Statistics

- Over 24,809 persons in Orange County are eligible for RCOC's services:
 - 3,521 ages birth to 3 (Early Start)
 - 734 ages 3 to 5 (Provisional Eligibility)
 - 20,554 ages 3* and older (Lanterman)
- Intake Referrals, 325-375 new referrals each month (approximately 80% are for birth-3 (Early Start); currently 571 in the Intake process



Numbers as of March 31, 2023

Early Start Eligibility

- Early Start (birth-3 years of age)
 - Infants and toddlers with Developmental Delay(s), 25% delay in one or more areas that include: cognitive, receptive or expressive language, fine/gross motor, social emotional or self help/adaptive
 - Established risk, a condition associated with high probability of developmental delay (Down Syndrome)
 - High Risk for developmental disability, must have two factors to be eligible: 32 weeks gestation, low birth weight <1500 grams, genetic disorders, congenital malformation, and several others
 - Child born to a parent with a Developmental Disability

Early Start Services

- Includes a variety of services: speech therapy, occupational therapy, physical therapy, infant stimulation, and/or behavior therapy
- Timeline for Early Start eligibility - within 45 days of receipt of application/consent forms: Intake meeting held, evaluation completed (disciplines included depend on the areas that need to be assessed), Individualized Family Service Plan (IFSP) meeting held with the family
- Eligible until 3rd birthday even if Case Management is the only service
- At age 3, those eligible for school district services transition to education supports

Lanterman Services

Age 3-lifetime



Lanterman Eligibility Criteria

- The Lanterman eligibility criteria are more strict than the Early Start (birth-3) eligibility criteria
 - 80% of children in Early Start are NOT eligible for services after age three
 - Over the last 12 months, 14% of children exiting out of Early Start were found eligible for Provisional Lanterman Services



Eligibility Criteria for Lanterman Services

- To be eligible, all of the following criteria must be met:
 - Have an eligible diagnosis
 - Onset before age 18
 - Be likely to continue indefinitely
 - Must meet severity requirements, i.e., “substantial disabilities” \geq three (3) areas

Eligibility Criteria for Lanterman Services

- Must be due to an eligible diagnosis:
 - Intellectual Disability (ID)
 - Cerebral Palsy (CP)
 - Epilepsy
 - Autism
 - Conditions like ID (5th category)



Eligible Diagnoses – “5th Category”

- Conditions closely related to intellectual disability, BUT NOT conditions that are solely physical or psychiatric
- Examples:
 - Some genetic disorders
 - Traumatic Brain Injury
 - Fetal Alcohol Syndrome



Substantial Disability in Areas of Major Life Activity

- Learning
- Receptive and expressive language
- Self-care
- Self-direction (includes social skill difficulties)
- Mobility
- Capacity for independent living
 - For children ≥ 6 years
- Economic self-sufficiency
 - For individuals \geq age 18



What Conditions are NOT Developmental Disabilities?

- A Developmental Disability shall not include disabling conditions that are:
 - Solely psychiatric disorders
 - Solely learning disabilities
- Conditions that are solely physical in nature:
 - Blindness
 - Deafness
 - Spinal cord injury
 - Most muscle diseases such as muscular dystrophy (unless in some severe cases where there is a significant cognitive impairment)

Lanterman Eligibility Process

- 120-day timeline to complete:
 - Intake interview and social assessment
 - Request and review records
 - If eligible, develop an Individual Program Plan (IPP)
- If not eligible, RCOC's eligibility determination can be appealed

Provisional Eligibility – Ages 3 to 5

To be eligible, the following criteria must be met:

- Have a disability that is not solely physical in nature
- Have significant functional limitations in at least two (2) areas (learning, receptive and expressive language, self-care, self-direction, mobility)
- RCOC will determine Lanterman eligibility by the child's 5th birthday
- Over the past 12 months, 27% of children turning 5 years of age were found eligible for life long Lanterman services

Referral Sources

- Self-referral
- Families
- Pediatricians/physicians
- Hospitals/NICU's
- School districts
- Community partners, including therapists, Help Me Grow, Orange County Mental Health, California's Department of Rehabilitation

RCOC's Comfort Connection

- For families of children with special needs of all ages, even if they are not RCOC eligible
 - Lending library of various resources located at our main office in Santa Ana
 - Help families connect with resources
 - Parent to parent support
 - Internet access
- How to contact:
 - (714) 558-5400
 - Via RCOC's website:
www.rcocdd.com/ccfrc/



The Appeals Process

Eligibility and Service Decisions

- Any applicant found ineligible for regional center services may appeal the eligibility determination
- Any person served who disagrees with a decision regarding services to be included in their IPP may appeal the decision
- When a decision is made regarding eligibility or services, a Notice of Action is sent notifying them of the decision, the basis for the decision, and their appeal rights
 - Sent in the individual's preferred language

Appeal Requests

- Submitted on the DDS website
- Any or all parts of the process may be selected:
 - Informal meeting
 - Mediation
 - Fair Hearing
- Must be submitted within 60 days of receipt of the Notice of Action
- Services will continue pending completion of the appeals process if the request is submitted within 30 days of receipt of the Notice of Action

Representation and Advocacy Assistance

- A person served may represent themselves during the appeals process or identify someone to serve as their representative
 - Representatives may include a family member or friend, an advocate, or an attorney
 - Persons served are notified of assistance available through the Clients' Rights Advocate, State Council on Developmental Disabilities, and the DDS Ombudsperson
- A regional center attorney may not be present at any stage in the appeals process unless the person served is represented by an attorney

Informal Meeting

- Meeting with the person served and a regional center representative
- Regional center is required to participate if the person served requests an informal meeting
- Held within 10 days of submission of appeals request
- An interpreter is provided by the regional center if requested
- Regional center provides a written decision within five (5) calendar days in the preferred language of the person served

Mediation

- A mediator from the Office of Administrative Hearings meets with the regional center and person served
- The mediator tries to assist the parties in reaching an agreement
- Regional center is required to participate in one session if the person served requests mediation
- Held within 30 days of submission of the appeals request
- An interpreter is provided by the Office of Administrative Hearings if needed

Fair Hearing

- Heard by an Administrative Law Judge from the Office of Administrative Hearings
- Held within 50 days of submission of the appeals request
- An interpreter is provided by the Office of Administrative Hearings if requested

Fair Hearing

- Information must be exchanged two (2) business days before the hearing:
 - Regional center must provide the person served with a position statement, a list of all witnesses, and copies of all exhibits
 - If not represented by an attorney, the persons served must provide the regional center a witness list and copies of reports and assessments
 - If represented by an attorney, the person served must provide the regional center with a position statement, a list of all witnesses, and copies of all exhibits

Fair Hearing

- Hearing must be conducted in an impartial and informal manner to encourage presentation of information and free and open discussion
- Regional center presents their case first, then the person served presents their case
 - Parties may call witnesses to testify and present documents
 - Formal rules of evidence do not apply
- Administrative Law Judge may:
 - Question a witness
 - Call a witness to testify
 - Hold the record open to allow a party to obtain necessary testimony or documentation

Fair Hearing Decisions

- For most cases, the Administrative Law Judge will issue the final decision
- Director of DDS may choose to review certain cases and issue the final decision
 - These cases currently include:
 - Coordinated Family Support Services
 - Self-Determination Program
 - Services outside of California
- If the preferred language of the person served is not English, the decision will be issued in both English and their preferred language

Reconsideration

- A party may request reconsideration within 15 days
- May request reconsideration for:
 - A mistake of fact or law;
 - A clerical error in the decision; or
 - Review of the decision of the hearing officer not to disqualify themselves

Implementation of Hearing Decision

- If the regional center prevails and the person served has been receiving the service, the decision is to be implemented 15 days after receipt of the final hearing decision by the person served
- If the person served prevails, the regional center must implement the hearing decision as soon as practical, but no later than 30 days from the date of the final decision
- If unable to implement the decision within 30 days, the regional center must notify the person served and DDS
- The person served can contact DDS if they are dissatisfied with the regional center's compliance with the decision
 - DDS must take appropriate actions to obtain compliance

Ops Report – Fair Hearings Data

- Fair Hearings Data for Fiscal Year 2022-2023 [link](#)

Questions?