

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
APPEALS OFFICE  
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Cranston, Rhode Island 02920  
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November 25, 2014

Docket # 14-942

Date of Hearing: 11/17/14

**ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been decided in your favor. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

**BHDDH POLICY MANUAL: DETERMINATION OF ELIGIBILITY AS A  
DEVELOPMENTALLY DISABLED ADULT**

The facts in your case, the Agency policy, and the complete administrative decision in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: Your attorney and Agency representatives Craig Stenning, Dan Ballirano and Karen Lowell.

Present at the hearing were: You, your mother and father, Alexander Speigleman, Esq., Nancy Black LCSW, Daniel Ballirano, Esq. and Agency representative Karen Lowell

**ISSUE:** Does the appellant meet the criteria for eligibility for services as a Developmentally Disabled Adult?

**DHS POLICIES:** Please see the attached **Appendix** for pertinent excerpts from the Department of Human Services Policy Manual.

**APPEAL RIGHTS:**

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

**DISCUSSION OF THE EVIDENCE:**

## **DISCUSSION OF THE EVIDENCE:**

### **The Agency testified:**

- The appellant applied for services through BHDDH as a Developmentally Disabled Adult on June 20, 2012.
- The appellant signed releases of information so that the Agency would be able to look at her medical records.
- The Agency also sends the applicant a questioner that is a functional information document.
- When the information is collected it goes before an eligibility committee to review the information against the State Statute to determine if the applicant is eligible for services.
- In this case the information was reviewed by Ms. Lowell, supervisor of eligibility determination unit, two eligibility workers, Laurie Lombardi-Burns, RN. and Brenda Centraccio (Bachelor of Social Work).
- The review committee used an eligibility determination review form, which contains the criteria for determining eligibility. The committee looks at the information and a record provided by the applicant and fills out a worksheet summary and completes this document.
- The appellant had a diagnosis of mild mental retardation. The Agency determined that the appellant was a Developmentally Disabled Adult.
- The Agency determined that the appellant had grade equivalents of 6<sup>th</sup> grade in Reading, 5<sup>th</sup> grade in Math and 5<sup>th</sup> grade in Writing.
- The appellant had full scale IQ scores in the record the most recent was 62.
- If a person is two standard deviations (15 points is a standard deviation) below the norm (100) they are considered mentally retarded. A score below 70 meets this definition.
- The Agency next looks at functional abilities in seven areas of daily living.
- There are seven functional areas that are assessed and to be eligible for services the applicant must qualify in three out of seven areas per statute.

- Self-care is one of the areas that are assessed. It relates to the ability to complete such daily activities as eating, dressing and hygiene and toileting either independently or semi-independently. They can do approximately 25% of the skill with some prompts.
- The Agency used the functional information given to them by the family, the appellant's records and their assessment of her to determine the appellant's level of functioning. The appellant did not meet the criteria for self-care.
- The appellant indicated that she does not need help in these areas.
- The next area of functioning is expressive and receptive language which is the ability to understand ordinary speech and to be understood verbally by someone who is unfamiliar with them. The appellant did not meet the criteria. The appellant can express herself and understand what people communicate to her.
- Learning is a section where the appellant did not meet the criteria. Her full-scale IQ is 62, she reads at a sixth grade level, math is at a fifth grade level and writing is at a fifth grade level; however because she had different IQ scores throughout her life the Agency felt she did not meet the criteria. Grade equivalents need to be below fourth grade.
- On mobility the score was for fine and gross motor skills. The appellant is independent in all areas.
- Self-direction is an area where the appellant did not meet the criteria. She has deficits in the areas of money management skills, budgeting and paying bills and ability to make daily decisions and problem solving. She did not meet three of the areas.
- Independent living involves tasks such as housekeeping, using community resources, maintaining a home. The appellant was able to do housekeeping tasks, making a purchase, exercising health and safety, using community resources. The appellant did not meet the criteria. The appellant stated she could cook pasta, do housework and use some cooking implements. She uses RIPTA and has a license.
- Economic self-sufficiency involves the ability to perform tasks needed for employment; filling out an application and being able to independently attend an interview and the ability to maintain employment. The appellant can perform work; she can fill out an application and participate in a simple interview. She does not have difficulty maintaining employment. She needs little job site support.

**The appellant testified:**

- She is 21 years old.
- She lives at home.
- She has never lived on her own.
- She went to High School at East Bay Met and Transitional Academy in [REDACTED]
- She can read and do math, but only addition and subtraction. She cannot multiply or divide.
- She cannot read a recipe. She does not understand measurements. She needs help.
- If she uses the stove she needs someone to set the temperature.
- She does not handle money on her own. She needs help making change. She does not know if she gets correct change.
- She hangs out with her sister and parents. They go to dinner and bowling. She does not hang out with friends.
- She does not understand what a social decision is. She does not know how to make decisions about who to hang out with.
- She does not know how to make sure she is always safe.
- She works at a daycare in the [REDACTED] Athletic Club. She is not sure how long she has been working there. She watches little kids.
- She has her driver's license but she only drives to her grandmother's house and near her own house.
- She works four days a week .Sometimes there is only one or two kids sometimes there is twenty. She has help on busy days.
- She takes RIPTA. She then walks about fifteen minutes to work.
- Her parents take her to the Park and Ride. She could not get there without them.
- She volunteers on Tuesdays.
- She gets a check each week. She puts it in the bank. She sometimes takes cash.

- She goes to dinner with it or shopping. Her mom takes her to the Mall.
- She has been driving since she is 16 and has no accidents.
- She likes to color when she is not working. She bowls once a week.
- She uses coloring books. She has markers and crayons.
- She cleans her room.
- Her mom works in the day and her dad works in the day and the night.
- She sometimes stays alone in the day. She does not like to stay at home at night. She goes to her grandmother's house and sometimes sleeps there.
- She helps her grandmother at her house.
- Her parents have a computer in there room. She does not go on it.
- She has a cell phone.
- She filled out the form for BHDDH.
- She tried to do it right.
- She goes to grandmothers two or three times a week.
- She gets SSI money that goes right into the bank.
- She used to work at [REDACTED] she brought out food and waitressed and sometimes was a Hostess.
- She was only there a couple of months because she did not do well. They did not put her on the schedule. She then did not work there anymore.
- She is not sure if she got the Childcare Certification.

**Nancy Black, Licensed Clinical Social Worker Testified:**

- She is a Licensed Independent Clinical Social Worker and an Educational Consultant.
- She is licensed by the State of Rhode Island.
- She is accredited by the Counsel of Social Workers.
- She has worked as a LCSW for over twenty-five years.
- She has a Master's Degree in Social Work.
- She has been seeing the appellant for over a year.
- She is familiar with the definition of mental retardation.
- She has reviewed the BHDDA criteria.
- She has reviewed the appellant's records.
- The appellant has a diagnosis of mild mental retardation.
- She has relied on this diagnosis when treating the appellant.
- The appellant has significant sub-average general intellectual functioning.
- The appellant has deficits in adaptive behavior.
- She has difficulty acknowledging when she needs help in daily living.
- She needs constant reminders about hygiene.
- She cannot be left alone to use the stove and needs help with the microwave.
- She needs social cues to interact properly with others outside the home.
- She does meet the criteria in self direction. She has deficits in social interaction. She does not make responsible social decisions and thereby put herself in danger.
- She left school to do this. She was nineteen at the time. She only met him once.
- She met a man at the mall and went with him to his home where there was some type of sexual activity that traumatized the appellant.
- She does not have the judgment to keep away from dangerous situations.

- She gave her number to this man and he subsequently began to bully her. There was a no contact order but she did not know what it meant.
- She was on face book with her. She also went on dating sights. She put her name, her picture and where she lived.
- She tried to tell her about danger signs and safe behaviors. She did not understand what red flag meant.
- She does not understand high risk behaviors.
- She cannot protect her own interests.
- She has trouble asserting her rights.
- She needs help to maintain social relationships. She needs help resolving problems on her own.
- She has deficits in independent living.
- She needs help with stove, dryer, microwave, washing machine.
- She needs ongoing supervision to maintain safety.
- She needs help getting community resources.
- She wants to please people and gets stressed if she feels inadequate.
- She has significant working memory issues. She needs a lot of support in stressful situations and becomes very tearful and her self-esteem plummets.
- She needs one step directions and support to follow through.
- She cannot achieve economic self- sufficiency. She could not get her own housing or budget her money to meet her needs.
- She is not capable of living independently. She would need to live where she would have support in daily living.
- She has seen the appellant about 15 to 20 times in the past year and a half.
- She did not bring her notes because of other information of a personal nature.
- The appellant overstates what she can do.

**The appellant's father testified:**

- His daughter is mildly mentally retarded and has a learning disability.
- She was diagnosed in 2005.
- His daughter cannot plan a menu. She does not know proper nutrition.
- She cannot shop for groceries alone. She has trouble with comparative shopping.
- She does not understand pricing.
- She cannot measure out ingredients for a recipe.
- She works ten hours a week doing some daycare.
- She used to work in a restaurant but could not handle the work. They told the owner that she had trouble with money and thought she would be a hostess. It turned out to be more like waitressing and she could not do the work.
- They never gave her hours once she could not handle it. She could not take the insults from co-workers.
- She does not understand when people are not nice.
- She interacts better with little children and older adults than her peers.
- She is emotionally younger than her age.
- She needs help preparing food. Has limited skill.
- She needs help making and getting to appointments and taking medication.
- She does not know what to do for medical treatment without prompting.
- She needs help managing money because she has limited math skills. She does not understand budgeting or the value of money.
- She needs help maintaining personal safety. She is a very trusting person. She will believe a person she does not know which makes her vulnerable.
- They monitor the computer now to ensure her safety.

- His daughter needs ongoing assistance in making decisions.
- She needs supervision and help in problem solving.
- She is not capable of living on her own.

**Findings of Fact:**

- The appellant applied for services through BHDDH as a Developmentally Disabled Adult on June 20, 2012.
- Medical information was requested and received by the Agency.
- The appellant was denied BHDDH services on December 10, 2013.
- The appellant requested an informal hearing.
- An informal hearing was held on March 20, 2013 in which the Agency's denial was upheld on May 12, 2014.
- The appellant filed a formal request for a formal May 30, 2014.
- The hearing was scheduled for September 3, 2014.
- A request for reschedule was received on August 29, 2014.
- The hearing was held for November 17, 2014.

**CONCLUSION:**

The issue to be decided is whether or not the appellant meets the criteria for eligibility as a Developmentally Disabled Adult.

A review of Agency Policy reveals that a "Developmentally Disabled Adult" means a person, eighteen years old or older and not under the jurisdiction of the department for children, youth and families who is either a mentally retarded developmentally disabled adult or is a person with a severe chronic disability which: is attributable to a mental or physical impairment or combination

of mental and physical impairments; is manifested before the person attains age 22; is likely to continue indefinitely; and results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other services which are individually planned and coordinated. In this case the appellant has a diagnosis of Mild mental retardation and an IQ of 68. The Agency found that she was a developmentally disabled adult.

Further review of Policy reveals that the criteria to meet eligibility for these benefits are determined by an eligibility committee. The Policy defines said committee as the Division's committee composed of a multi-disciplinary team which may include social workers, psychologists, nurses and developmental disability and mental retardation professionals who shall meet to determine whether or not applicants who have applied for services from the Division are eligible in accordance with the statutory criteria.

The agency testified that they had come to their decision using medical records, assessments and a face to face interview with the appellant. The Agency testified that the appellant did not meet any of the seven criteria for services as a Developmentally Disabled Adult.

The appellant's attorney argues that she meets the criteria for self-care, capacity for independent living and economic self-sufficiency.

The appellant's attorney presented testimony from a Licensed Clinical Social Worker MSW who is a treating source. She testified that in her professional opinion the appellant has functional limitations in all seven life areas due to her low IQ and her emotional immaturity and lack comprehension of social situations.

The Agency testified that the appellant has a His full-scale IQ is 68, she reads at a 6th grade level and understands math is at a 5th grade level so therefore in the Economic self-sufficiency category which involves the ability to perform tasks needed for employment; filling out an application and being able to independently attend an interview and the ability to maintain employment they found that the appellant can perform work, she can fill out and application and participate in a simple interview, do simple adding and subtracting, make change and read a bus route or cooking instructions and therefore be able to live on her own.

The medical evidence and evaluations by medical professionals indicate that although the appellant can read at a 6<sup>th</sup> grade level, her comprehension is flawed. She is noted in medical records to have a poor working memory and only understands adding and subtraction at the most basic level.

Her father testified that she needs prompting and constant reminders and supervision in almost all activities of daily living.

The Agency argued that she had a higher IQ on one older test and that the fact that she is able after much teaching and practicing to drive a car that she can function on her own.

Evidence indicated that of the three IQ tests submitted the oldest one was the only one on which she scored significantly higher and that the score has gone down 15 points in the past fifteen years. The Agency cannot accept a diagnosis of Mental Retardation using IQ as part of their reasoning and then dispute the tests at hearing.

The Appellant's attorney and her parents indicated that she drives in an extremely limited area that does not even have traffic lights. She only drives to her grandmother's house and a store very close by.

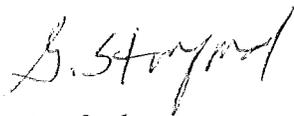
The appellant's treating Licensed Clinical Social Worker indicated that although she is twenty-two her emotional and cognitive age is much younger and she does not understand the world as other twenty-two year olds do, which can put her in dangerous situations. She also does not have the capability of really learning from bad decisions because of her limited outlook and mental abilities.

All records indicate that she had a learning disability diagnosis for years.

In summary the medical evaluations and reports indicate that the appellant's diagnosis of mental Retardation causes her to have substantial functional limitations in at least three of the seven areas of life activities. The preponderance of evidence presented indicates she meets the eligibility criteria.

After careful and considerate review of the Agency's policies as well as the evidence and testimony submitted, this Appeals Officer finds that the appellant does meet at least three of the criteria to be found eligible for Developmentally Disabled Adult Services; therefore her request for relief is granted.

ACTION FOT THE AGENCY: The Agency is to go back to the original application date and begin appellant's benefits.



Geralyn B. Stanford  
Appeals Officer

## APPENDIX

RULES AND REGULATIONS  
RELATING TO THE DEFINITION OF DEVELOPMENTALLY DISABLED  
ADULT AND THE DETERMINATION OF  
ELIGIBILITY AS A DEVELOPMENTALLY DISABLED ADULT

PREAMBLE

The Division of Developmental Disabilities within the Department of Mental Health, Retardation and Hospitals has promulgated these rules and regulations in order to provide a fair and accurate implementation of the definition of developmentally disabled adult in accordance with the statutory definition.

SECTION 1 SCOPE AND PURPOSE

It is the intent of these Rules and Regulations to establish standards and procedures for the determination of eligibility as a developmentally disabled adult pursuant to R.I. Gen. Laws 40.1-21-1 et seq. and R.I. Gen. Laws 40.1-26-1 et seq. Nothing in these rules and regulations shall be construed to relieve any agency, state or local from its obligations to provide services to any person regardless of whether the individual is eligible for services from the Division.

SECTION 2 DEFINITIONS

2.1 "Advocate" means a legal guardian or an individual acting on behalf of an applicant in a manner clearly consistent with the interests of the person and may include a friend or professional advocate. (R.I. Gen. Laws 40.1- 26-2 (1))

2.2 "Applicant" means the person who is applying for services from the Division of Developmental Disabilities.

2.3 "Assessment tool" means a standardized instrument used to evaluate an individual's level of functioning.

2.4 "Division" means the Division of Developmental Disabilities within the Department of Mental Health, Retardation and Hospitals.

2.5 "Eligibility Committee" means the Division's committee composed of a multi-disciplinary team which may include social workers, psychologists, nurses and developmental disability and mental retardation professionals who shall meet to determine whether or not applicants who have applied for services from the Division are eligible in accordance with the statutory criteria.

2.6 "Relative" means a member of the participant's or applicant's family who has been actively involved in the participant's or applicant's life, has an ongoing relationship with the participant or applicant and is supportive in a manner clearly consistent with the best interests of the participant or applicant. (R.I. Gen. Laws 40.1-26-2(11))

2.7 "Serious mental illness" means an illness which is biologically based, severe in degree and persistent in duration, which causes a substantially diminished level of functioning in the primary aspects of daily living and an inability to cope with the ordinary demands of life, which may lead to an inability to maintain stable adjustment and independent functioning without long-term treatment and support and which may be of lifetime duration. Serious mental illness includes schizophrenia, bi-polar disorders as well as a spectrum of psychotic and other severely disabling psychiatric diagnostic categories, but does not include infirmities of aging or a primary diagnosis of mental retardation, alcohol or drug abuse or anti-social behavior. (R.I. Gen. Laws 40.1-5.4-7(10))

2.8 "Developmentally Disabled Adult" means a person, eighteen years old or older and not under the jurisdiction of the department for children, youth and families who is either a mentally retarded developmentally disabled adult or is a person with a severe chronic disability which: (a) is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is manifested before the person attains age 22; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning (4) mobility, (5) self-direction, (6) capacity for independent living, (7) economic self sufficiency (e) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other services which are individually planned and coordinated. For purposes of funding, it is understood that students enrolled in school will continue to receive education from their local education authority in accordance with R.I. Gen. Laws 16-24-1 et seq. (R.I. Gen. Laws 40.1-21-4.3(5))

2.9 "Mentally retarded developmentally disabled adult" means a person 18 years or older and not under the jurisdiction of the department of children, youth and families, with significant sub average, general intellectual functioning two standard deviations below the norm, existing concurrently

with deficits in adaptive behavior and manifested during the developmental period. For purposes of funding, it is understood that students enrolled in school will continue to receive education from their local education authority in accordance with R.I. Gen. Laws 16-24-1 et seq. (R.I. Gen. Laws 40.1-21-4.3(8))

2.10 "Attributable to a mental or physical impairment or combination of mental or physical impairments," means that the individual has an impairment of the central and/or peripheral nervous system (brain and spinal cord), or a neurological, intellectual, or cognitive condition, and/or paralytic or other motor disorders but does not include impairments as the result of social problems such as juvenile delinquency or substance abuse. The professional(s) making the determination of the presumed disability will be those normally qualified to make such judgments using accepted assessment procedures in the area of developmental disabilities.

2.11 "Manifested before the age of twenty-two" means that the person's disability became apparent before the person attained age 22 and resulted in substantial functional limitations prior to the 22<sup>nd</sup> birthday

2.12

2.13 "Likely to continue indefinitely" means that the body system(s) affected are ones that are not likely to regain capacity even with medical or rehabilitative treatment; the mental/physical impairment is known to be chronic; it is the judgment of a qualified professional that the individual is likely to remain impaired for the foreseeable future.

2.14 "Substantial functional limitation" means the applicant performs substantially below the level expected for an adult with respect to the skills necessary in an area of major life activity.

2.14 "Self-care," means the daily activities that enable a person to meet basic life needs for food, hygiene and appearance.

2.15 "Receptive and expressive language" means communication involving both verbal and non-verbal behavior enabling the individual both to understand others and to express ideas and information to others.

2.16 "Learning" means general cognitive competence and the ability to

acquire new behaviors, perceptions and information and to apply experiences in new situations.

2.17. "Mobility" means motor development and the ability to use fine and gross motor skills; the ability to move from one place to another.

2.18 "Self-direction" means the management and control over one's own social and personal life; the ability to make decisions affecting and protecting one's own

interests.

2.19 "Capacity for independent living" means the ability to manage one's own health care and personal safety, the ability to use community resources, to perform basic housekeeping skills (cleaning, maintenance, cooking and laundry), and money management skills.

2.20 "Economic self-sufficiency" means the ability to maintain adequate employment and compensation.

2.21 "Substantial functional limitation in economic self-sufficiency" means that an individual requires on-going supervision or frequent assistance and extensive training to perform the tasks required for a job, or to be able to work and maintain his/her employment as a result of his/her disability and not as a result of economic conditions or life style choice.

2.22 "Substantial functional limitation in expressive and receptive language" means that an individual needs another person or alternative method to express or understand needs and wants or to effectively communicate with others or the individual is unable to understand/comprehend language or other forms of communication.

2.23 "Substantial functional limitation in independent living" means that an individual needs ongoing assistance or frequent supervision to manage health care needs, to use community resources, to manage money, to perform routine housekeeping, or to maintain personal safety.

2.24 "Substantial functional limitation in learning" means that an individual has tested two standard deviations below the mean on a comprehensive individual intelligence test or has had a comparable performance in two or more specific intellectual areas, such as memory, computation, reading/writing and perception or that the person demonstrates the need for ongoing assistance or frequent supervision to use information or skills in different or new situations.

2.25 "Substantial functional limitation in mobility" means that an individual needs the ongoing physical assistance of another person to move from place to place or needs the use of an extraordinary assistive device to move from place to place.

2.26 "Substantial functional limitation in self-care" means that an individual needs on-going physical assistance, extensive training and/or frequent supervision in taking care of personal needs such as eating, personal hygiene and dressing.

2.27 "Substantial functional limitation in self-direction" means that an individual requires ongoing assistance or frequent supervision in making decisions about social activities, personal finances, planning and setting goals, protecting one's interests, establishing and asserting one's rights and maintaining social relationships and resolving problems in daily living.

### SECTION 3 POLICY

3.1 The concept of developmental disability is that individuals with different conditions/diagnoses share certain characteristics that give rise to shared service needs.

3.2 The definition of developmental disability is focused on individuals with the most severe functional limitations.

3.32 The determination that an applicant does or does not meet the definition of developmentally disabled adult is a professional judgment based on an evaluation and review of all relevant records and documents by an interdisciplinary team of developmental disability professionals and cannot be decided on the basis of a specific categorical disability or solely through the use of assessment tools or based upon the opinion of only one type of professional.

3.4 The Division of Integrated Mental Health is established to plan and provide a comprehensive range of services to a priority population, adults with serious mental illness, (R.I. Gen. Laws 40.1-5.4-1 et seq.). Individuals with serious mental illness shall receive services through the Division of

Integrated Mental Health and will only be determined eligible for services from the Division of Developmental Disabilities, if in addition to their serious mental illness, they also meet the statutory definition of developmentally disabled adult.

3.5 Any acceptance of Division funded services is voluntary, except in accordance with R.I. Gen. Laws 40.1-22-1 et seq.

### SECTION 4 ELIGIBILITY FOR SERVICES

4.1. Any resident of Rhode Island who meets the statutory definition of developmentally disabled adult is eligible to receive services from the Division.

4.2. Application for Services may be made by:

- (a) The applicant;
- (b) A legal guardian or relative of an applicant;

(c) A school district where the applicant is receiving educational services;

(d) Staff from the Department of Children, Youth and Their Families when the applicant is in the custody of that agency;

(e) Provider agencies, professionals, or advocates, with the permission of the applicant.

4.3. An application for services shall be in writing on forms provided to the applicant by the Division. When an application is provided, the Division shall also provide Releases of Information to be signed by the applicant or the applicant's legal guardian or relative in order to permit the Division to have access to educational, medical, psychological, vocational and other records that will assist the Division in the eligibility determination. If the applicant or other person applying for services on behalf of an applicant requires assistance in completing the application, Division staff shall assist in the completion of the application. A copy of the application is attached hereto for reference. If the application is not made directly by the applicant or the applicant's relative or legal guardian, then the agency, advocate or professional making the application is responsible for providing the Division with all records and evaluations.

4.3.1 An applicant's refusal to sign the necessary releases of information and/or to assist the Division in obtaining the necessary records shall result in the Division determining the applicant to be ineligible for services from the Division.

4.4. Whenever possible, an application should be made at least three months prior to the applicant's need for services in order to ensure a timely decision regarding eligibility.

4.5. For those individuals who make an application after the age of twenty-two (22), records, documents or other information must be available to determine if the disability was present in its substantial form prior to the applicant's twenty-second birthday.

4.6. The Division will identify the name, address and phone number of the staff responsible for receiving and processing applications and shall establish a system for documenting the receipt of applications. Within ten (10) business days of the receipt of an application, the Division shall notify the applicant in writing that the application has been received and shall begin the process of making the eligibility determination.

4.7. In cases where the information regarding eligibility is inconclusive, the Division may request that the applicant undergo further intellectual, functional and/or behavioral assessments. If the assessments cannot be paid for through the applicant's insurance, the Division is responsible for the cost of the assessments. In the event that an applicant is unwilling to undergo further evaluations, the Division shall determine the

applicant to be ineligible for services.

4.8 The Division will make a judgment regarding the necessity of a personal interview with the applicant but prior to any determination of ineligibility, except when ineligibility is determined in accordance with 4.3.1, Division staff will personally interview the applicant.

4.9. The Eligibility Committee shall review the information and records received and shall within thirty (30) days of the receipt of all requested records and/or assessments (completed application), make a decision regarding whether or not the applicant meets the criteria as a developmentally disabled adult and is therefore, eligible for services from the Division.

4.10 If the necessary documents have not been obtained within forty-five

(45) days from the date that the application was received, the applicant shall be notified by the Division that the documents have not been received by the Division and therefore an eligibility determination cannot be made until the necessary records are received.

4.10.1 If it is determined that the records sought are not available, an alternate assessment pursuant to 4.7 may be required by the Division or the Division may make the eligibility determination based upon the available information and records.

4.11 If the Eligibility Committee determines that an applicant is ineligible for services from the Division, notice of the determination shall be sent to the applicant, the applicant's legal guardian or relative and, when appropriate, the agency, advocate or professional who referred the individual. The notice shall include a statement as to the reasons why the Eligibility Committee determined that the applicant was not eligible for services and a statement regarding the applicant's appeal rights.

4.12 If the Eligibility Committee determines that an applicant is eligible for services from the Division, notice of the determination shall be sent to the applicant, the applicant's legal guardian or relative and, when appropriate, the agency, advocate or professional who referred the applicant. The notice shall state the name, address, and phone number of the Division staff member who should be contacted to begin the process of developing the individualized plan for the applicant.

## NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.