

ELIGIBILITY

Introduction

Infants and toddlers are determined to be eligible for early intervention services based on the results of a comprehensive, multidisciplinary evaluation or a diagnosed condition known to result in a developmental delay.

Infants and toddlers at biological or environmental risk for developmental delay are not eligible for early intervention services unless they are exhibiting a developmental delay at the time of the evaluation.

Statewide eligibility criteria for Kansas Infant-Toddler Services/tiny-k services have been established by the state for children with developmental delays. It is not the intent of the eligibility criteria to result in an assignment of a specific label/diagnosis for the child. Infants or toddlers change rapidly during the first three years of life, as do family factors. While a label/diagnosis may be selected because of administrative needs (e.g., funding), labeling/diagnosis is not necessary to establish eligibility in Part C.

It is the goal of the eligibility criteria to identify all infants and toddlers who are developmentally delayed or who are at established risk for developmental delay as soon as possible, while allowing for developmental differences.

I. Eligibility Criteria [34 C.F.R. 303.16; 34 C.F.R. 303.300]

Children ages birth through 2 who are developmentally delayed or have a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay are eligible for early intervention services. These delays are defined as follows:

A. Developmental Delay

A child is considered to have developmental delay if his or her development is delayed in one or more of the following areas:

- cognitive development;
- physical development;
- communication development;
- social or emotional development; or
- self-help/adaptive development.

A child is identified as developmentally delayed when:

1. there is a discrepancy of 25% or more between chronological age and developmental age in any one area; or
2. the child is functioning at 1.5 standard deviations or more below the mean in any one area; or

3. there are delays of at least 20% or more between chronological age and developmental age in two or more areas; or
4. the child is functioning at least 1 standard deviation below the mean in two or more areas; or
5. informed clinical opinion/professional judgment of the multidisciplinary team (including the professional in the area/s of delay) concludes a developmental delay exists when appropriate tests are not available or when testing does not reflect the child's actual performance. Professional judgment is a necessary safeguard against making eligibility determination based upon isolated information or test scores alone.

B. Established Risk for Developmental Delay

Children ages birth through 2 with a diagnosed mental or physical condition that has a high probability of resulting in a developmental delay are at established risk for developmental delay and are eligible for early intervention services. Children at risk of substantial developmental delay according to informed clinical opinion are eligible for early intervention services. Activities used to determine eligibility due to an established risk for developmental delay by use of clinical judgment include record review, observation, and parent reporting and must be described in the written evaluation report. The delay may or may not be exhibited at the time of diagnosis or clinical judgment.

C. Additional Considerations to Established Eligibility

Research suggest that there are many medical diagnoses that may impact development, although with a lesser probability than those conditions listed as established conditions. Examples include: Brachial plexus palsy, hand deformity, limb deformity, Torticollis, Plagiocephaly. These conditions in and of themselves may not point toward eligibility for early intervention; however, there may be other circumstances in the child's life (e.g., health status, family situations, additional developmental delay) that may influence the course of the child's development. When developmental concerns exist concurrent with these diagnosed conditions, the child's evaluation team would determine eligibility based on eligibility criteria outlined in Section A above.

II. Physical and Mental Conditions Resulting in a High Probability of Developmental Delay

A. Examples of such conditions include, but are not limited to:

1. Congenital Anomaly/Genetic Disorders/Inborn Errors of Metabolism. These are children diagnosed with one or more congenital abnormalities or genetic disorders with developmental implications. Some examples are:
 - Fragile X syndrome
 - Chromosomal abnormality syndromes
 - Down syndrome
 - Trisomy 21 or 3
 - Patau's syndrome
 - Trisomy 18
 - Autosomal deletion syndromes
 - antimongolism syndrome
 - Cri-du-Chat syndrome

Other conditions due to autosomal anomalies

2. Inborn Errors of Metabolism
 - i. Amino acidopathies
 - Organic acidemias
 - Glutaric aciduria type II
 - ii. Very long-chain fatty acid storage diseases
 - All, including Peroxisomal disorders
 - Leukodystrophy, Krabbe's disease, Pelizaeus-Merzbacher disease, sulfatide lipidosis
 - Cerebral lipidoses, Batten disease, Jansky-Bielschowsky disease, Kufs disease, Spielmeyer-Vogt disease, Tay-Sachs disease, Glangliosidosis
 - Cerebral degeneration in generalized lipidoses
 - Cerebral degeneration of childhood in other diseases classified elsewhere
 - iii. Conditions due to anomaly of unspecified chromosome
3. Prenatal Exposures
 - Fetal alcohol syndrome
 - Fetal Phenytoin (Dilantin) syndrome
4. Neurocutaneous Syndromes
 - Neurofibromatosis
 - Tuberous sclerosis
 - Sturge Webber syndrome
5. Prenatal Infections
 - TORCH
 - Congenital toxoplasmosis
 - Congenital rubella
 - Congenital CMV (cytomegalovirus)
 - Congenital herpes
 - Pediatric HIV/AIDS
6. Congenital Infections. These are children diagnosed with congenital infections with developmental implications. Some examples are:
 - Toxoplasmosis,
 - Rubella,
 - Cytomegalovirus
 - HIV
7. Sociocommunicative Disorders
 - Asperger syndrome/disorder
 - Autism
 - Childhood depression
 - Childhood disintegrative disorder
 - PDD-NOS (pervasive developmental disorder-not otherwise specified)
 - Reactive attachment disorder
 - Rett syndrome

8. Attachment Disorder
9. Hearing Loss – Congenital or Acquired. These are children diagnosed with unilateral or bilateral permanent hearing loss. This includes auditory neuropathy
10. Vision Impairment. Congenital or Acquired. These are children diagnosed with a visual impairment that is not correctable with treatment, surgery, glasses, or contact lenses. This includes but is not limited to
 - Blindness (“legal” blindness or 20/200 best acuity with correction)
 - Low vision (20/70 best acuity with correction)
 - Retinopathy of prematurity (grades 4 and 5)
 - Neurological visual impairment
11. Motor Impairments
 - Developmental apraxia
12. Neurologic/Central Nervous System Disorders. These are children diagnosed with a condition known to affect the nervous system with developmental implications such as:
 - Absence of part of brain
 - Agyria
 - Aplasia of part of brain
 - Arhinencephaly
 - Brain malformation
 - Cerebral dysgenesis or agenesis of part of brain
 - Cerebral palsy (all types)
 - Congenital cerebral cyst
 - Degenerative progressive neurological condition
 - Encephalopathy
 - Epilepsy
 - Holoprosencephaly
 - Hydrocephaly – congenital or acquired
 - Intraventricular hemorrhage (IVH) - Grade 3 & Grade 4
 - Macroencephaly
 - Macrogyria
 - Megalencephaly
 - Meningomyelocele/myelomeningocele/spina bifida/neural tube defect
 - with hydrocephalus includes Arnold-Chiari syndrome, type II and Chiari malformation, type II
 - unspecified region
 - cervical region
 - dorsal (thoracic) region
 - lumbar region
 - without mention of hydrocephalus (hydromeningocele (spinal), hydromyelocele, mengocele (spinal) meningomyelocele, myelocele, myelocystocele, rachischisis, spina bifida (aperta) syringomyelocele
 - unspecified region
 - cervical region
 - dorsal (thoracic) region
 - lumbar region
 - Microgyria
 - Microcephaly
 - Multiple anomalies of the brain, NOS (not otherwise specified)

Myopathy
Peri-ventricular Leukomalacia (PVL)
Porencephalic Cyst
Seizures (poorly or uncontrolled)
Spina bifida
Spinal muscular atrophy/Werdnig Hoffman disorder
Stroke
Ulegyria

13. Neonatal Conditions and Associated Complications. These are children diagnosed with one or more of the following neonatal conditions known to have developmental implications:

- a. Gestational age less than 27 weeks or birth weight less than 1,000 grams;
- b. Neonatal encephalopathy with neurological abnormality persisting at discharge from the neonatal intensive care unit;
- c. Moderate to severe ventricular enlargement at discharge from the neonatal intensive care unit or a ventriculoperitoneal shunt;
- d. Neonatal seizures, stroke, meningitis, encephalitis, porencephaly, or holoprosencephaly;
- e. Bronchopulmonary dysplasia requiring supplemental oxygen at discharge from the neonatal intensive care unit;
- f. Intrauterine growth retardation;
- g. Necrotizing enterocolitis requiring surgery;
- h. Abnormal neurological exam at discharge;
- i. Intraventricular hemorrhage III or IV; or
- j. Periventricular leukomalacia
- k. **A combination of risk factors that, taken together, makes developmental delay highly probable (including but not limited to a combination of these factors: prematurity < 30 233ks, very low birthweight < 1500 grams, small or large for gestational age, length of hospital stay in newborn period >45 days, family history of hearing impairment, apnea, prolonged ventilation, low apgar scores).**

14. Other Syndromes

Angelman syndrome
Bardet-Biedl syndrome
CHARGE syndrome
Cornelia de Lange syndrome
Fragile X syndrome
Jeune syndrome
Lissencephaly syndrome (Miller-Dieker syndrome)
Menkes syndrome
Noonan syndrome
Opitz syndrome
Prader-Willi syndrome
Rubenstein-Taybi syndrome
Weaver syndrome
Williams syndrome

15. Medically Related Disorders

Congenital or infancy-onset hypothyroidism

Cleft palate (prior to the operation to repair the cleft and up to one-year post-operative)
Lead intoxication (>45 µg/dL) (up to six months after identification)
Lead acetate, tetraethyl lead
Other lead compounds
Unspecified lead compound

16. Acquired Trauma-Related Disorders

Traumatic brain injury/TBI without open intracranial wound
with prolonged loss of consciousness and return to conscious level
with prolonged loss of consciousness without return to conscious level
unspecified state of consciousness
Traumatic brain injury/TBI with open intracranial wound
with prolonged loss of consciousness and return to conscious level
with prolonged loss of consciousness without return to conscious level
with concussion, unspecified

17. Disorders of Growth

Failure to thrive

18. A combination of risk factors that, when taken together, make a developmentally delay highly probable. Examples include: A parent who has been medically diagnosed as having a severe mental disorder as set forth under axis I and axis II of the *Diagnostic and Statistical Manual (DSM) IV* or a documented, significant developmental disability; or three or more of the following risk factors:

- Current documented alcohol or substance abuse by the primary caregiver;
- Current homelessness of the child. Homelessness is defined as children who lack a fixed, regular, and adequate nighttime residence, in conformity with the McKinney Vento Homeless Assistance Act;
- Documented chronic illness of the primary caregiver;
- Documented alcohol or substance abuse by the mother during pregnancy with the child;
- Primary caregiver with a level of education equal to or less than the 10th grade, unless that level is appropriate to the primary caregiver's age;
- An indicated case of abuse or neglect regarding the child and the child has not been removed from the abuse or neglect circumstances

III. Child Count Report

Children ages birth through 2 who are developmentally delayed or are at established risk for developmental delay must be included in child count reporting to the state.

Children ages birth through 2 who are at risk of developmental delay because of biological or environmental reasons must not be included in child count reporting to the state.

Federal Regulations 1997

34 C.F.R. 303.16 Infants and toddlers with disabilities.

(a) As used in this part, infants and toddlers with disabilities means individuals from birth through age two who need early intervention services because they—

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(i) Cognitive development.

(ii) Physical development, including vision and hearing.

(iii) Communication development.

(iv) Social or emotional development.

(v) Adaptive development; or

(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) The term may also include, at a State's discretion, children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(Authority: 20 U.S.C. 1432(5))

Note 1: The phrase "a diagnosed physical or mental condition that has a high probability of resulting in developmental delay," as used in paragraph (a)(2) of this section, applies to a condition if it typically results in developmental delay. Examples of these conditions include chromosomal abnormalities; genetic or congenital disorders; severe sensory impairments, including hearing and vision; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; and severe attachment disorders.

Note 2: With respect to paragraph (b) of this section, children who are at risk may be eligible under this part if a State elects to extend services to that population, even though they have not been identified as disabled. Under this provision, States have the authority to define who would be "at risk of having substantial developmental delays if early intervention services are not provided." In defining the "at risk" population, States may include well-known biological and environmental factors that can be identified and that place infants and toddlers "at risk" for developmental delay. Commonly cited factors include low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, and a history of abuse or neglect. It should be noted that "at risk" factors do not predict the presence of a barrier to development, but they may indicate children who are at higher risk of developmental delay than children without these problems.

34 C.F.R. 303.300 State eligibility criteria and procedures.

General. Each statewide system of early intervention services must include the eligibility criteria and procedures, consistent with Sec. 303.16, that will be used by the State in carrying out programs under this part.

(a) The State shall define developmental delay by—

(1) Describing, for each of the areas listed in Sec. 303.16(a)(1), the procedures, including the use of informed clinical opinion, that will be used to measure a child's development; and

(2) Stating the levels of functioning or other criteria that constitute a developmental delay in each of those areas.

(b) The State shall describe the criteria and procedures, including the use of informed clinical opinion, that will be used to determine the existence of a condition that has a high probability of resulting in developmental delay under Sec. 303.16(a)(2).

(c) If the State elects to include in its system children who are at risk under Sec. 303.16(b), the State shall describe the criteria and procedures, including the use of informed clinical opinion, that will be used to identify those children.

(Approved by the Office of Management and Budget under control number 1820-0550) (Authority: 20 U.S.C. 1432(5), 1435(a)(1))

Note: Under this section and Sec. 303.322(c)(2), States are required to ensure that informed clinical opinion is used in determining a child's eligibility under this part. Informed clinical opinion is especially important if there are no standardized measures, or if the standardized procedures are not appropriate for a given age or developmental area. If a given standardized procedure is considered to be appropriate, a State's criteria could include percentiles or percentages of levels of functioning on standardized measures.