



Initial and Continuing Eligibility Criteria for Early Intervention in NYS

(Source: New York State Public Health Law Article 25 Title II-A, SUBPART 69-4, Final Regulations, Early Intervention Program, November 30, 2016.)

Initial eligibility

- a diagnosed physical or mental condition with a high probability of resulting in developmental delay; or,
- the presence of a developmental delay which affects functioning in one or more of the following domains of development (based on a multidisciplinary evaluation):
 - cognition
 - physical (including vision, hearing and oral motor feeding and swallowing disorders)
 - communication
 - social-emotional or
 - adaptive development

as measured by qualified personnel using informed clinical opinion, appropriate diagnostic procedures, and/or instruments and documented as:

- a 12 month delay in one domain; or
- a 33 % delay in one domain or a 25% delay in each of two domains; or
- a score of at least 2.0 standard deviations (SD) below the mean in one domain or a score of at least 1.5 SD below the mean in each of two domains; or

For children who have been found to have a delay only in the communication domain,

- delay shall be defined as a score of 2.0 SD below the mean in the area of communication; or...
- according to clinical practice guidelines issued by the NYS DOH:
- **18 months of age or older:**
 - exhibiting a "severe language delay"
 - ❖ no single words by 18 months
 - ❖ a vocabulary of fewer than 30 words by 24 months of age, or
 - ❖ no two-word combinations by 36 months of age;
 - or
 - the documented presence of a clinically significant number of known predictors of continued language delay at 18-36 months of age, in each of the following areas of speech language and non-speech development:
 - ❖ Language production
 - ❖ Language comprehension
 - ❖ Phonology
 - ❖ Imitation
 - ❖ Play
 - ❖ Gestures
 - ❖ Social Skills and,
 - ❖ Health and family history of language problems

➤ **younger than 18 months of age:**

documentation that the child has attained **none** of the normal language milestones expected for children in the next younger age range, and **none** for the upper limit of the child's current chronological age range, and the presence of a preponderance of established prognostic indicators of communication delay that will not resolve without intervention, as specified in clinical practice guidelines issued by the NYS DOH.



Continuing eligibility

If there is an observable change in the child's developmental status that indicates a potential change in eligibility, the early intervention official (EIO) (In our region, this would be the EIOD (Designee)) may require a determination to be made of whether the child continues to be eligible for EI program services. May not be sooner than 6 months after a child and family's initial IFSP in the program.

- Continuing eligibility for EI shall be established by a multidisciplinary evaluation ...which includes the right for the parent to select an approved evaluator, and shall be based on the following criteria:
 - a delay consistent with the criteria established for initial eligibility as set forth above; or,
 - a delay in one or more domains, such that the child's development is not within the normal range expected for his or her chronological age, as documented using clinical procedures, observations, assessments, and informed clinical opinion; or,
 - a score of 1.0 SD or greater below the mean in one or more developmental domains; or,
 - the continuing presence of a diagnosed physical or mental condition with a high probability of resulting in a developmental delay.

- If the parent refuses to consent to a multidisciplinary evaluation to establish the child's continuing eligibility, continuing eligibility has not been established and the child shall no longer be eligible for EI program services.

- The EIO(D) must send the parent written notice 10 working days before the proposed discharge: The letter must include detail:
 - ❖ inform the parent about the action that is being proposed,
 - ❖ the reasons for taking such action; and,
 - ❖ all procedural safeguards available under the EI program, including the right of the parent to request mediation or an impartial hearing on the child's ongoing eligibility for the EI program.