

DEPARTMENT OF DEVELOPMENTAL SERVICES

1215 O Street, MS 9-60
Sacramento, CA 95814
TTY: 711
(916) 654-1897



August 5, 2021

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: PROVISIONAL ELIGIBILITY FOR REGIONAL CENTER SERVICES

Developmental Services Budget Trailer Bill, AB 136 (Chapter 76, Statutes of 2021), amended Welfare and Institutions (W&I) Code section 4512 to expand eligibility for Lanterman Developmental Disabilities Services Act (Lanterman Act) services by allowing a child who is three or four years of age to be provisionally eligible for regional center services under specified conditions. This section also outlines the process for assessment and reassessment of the child at certain points in time. These amendments became effective July 16, 2021.

Pursuant to W&I Code section 4512(a)(2), if a child who is three or four years of age is not otherwise eligible for regional center services as a result of a developmental disability as specified in W&I Code section 4512(a)(1), the child shall be provisionally eligible for regional center services if the child has a disability that is not solely physical in nature and has significant functional limitations in at least two of the following areas of major life activity, as determined by a regional center and as appropriate to the age of the child:

1. Self-care
2. Receptive and expressive language
3. Learning
4. Mobility
5. Self-direction

To be provisionally eligible, a child is not required to have one of the developmental disabilities listed in W&I Code section 4512(a)(1). A child exiting Early Start may be eligible for Lanterman Act services under the provisional eligibility criteria. Likewise, a child who is three or four years of age who did not receive Early Start services, may be provisionally eligible. Enclosed is a chart comparing the Lanterman Act eligibility requirements for services pursuant to W&I Code section 4512(a)(1) and provisional eligibility pursuant to section 4512(a)(2). Similar to individuals who are eligible pursuant to W&I Code section 4512(a)(1), a child who is determined to be provisionally eligible must have a Client Development Evaluation Report and Individual Program Plan completed.

“Building Partnerships, Supporting Choices”

Assessment of Infants and Toddlers Receiving Early Intervention Services

An infant or toddler receiving early intervention services from the regional center pursuant to Government Code section 95014 shall be assessed by the regional center at least 90 days prior to the date that they turn three years of age for purposes of determining their eligibility for Lanterman Act services. That assessment shall first determine if the child has a developmental disability under W&I Code section 4512(a)(1). If the regional center determines that the child does not have a developmental disability, the regional center shall determine if the child is provisionally eligible for Lanterman Act services. If the regional center determines the child does not have a developmental disability and is not provisionally eligible for Lanterman Act services, the regional center shall give adequate notice pursuant to W&I Code section 4701.

Assessment of Children Ages Three or Four who are Referred to the Regional Center

A child referred to the regional center who is three or four years of age and has not received early intervention services shall be assessed pursuant to W&I Code section 4643. That assessment shall first determine if the child has a developmental disability under W&I Code section 4512(a)(1). If the regional center determines that the child does not have a developmental disability, the regional center shall determine if the child is provisionally eligible for Lanterman Act services. If the regional center determines the child does not have a developmental disability and is not provisionally eligible for Lanterman Act services, the regional center shall give adequate notice pursuant to W&I Code section 4701.

Reassessment of Children who are Provisionally Eligible

A child who is provisionally eligible shall be reassessed at least 90 days before turning five years of age. The child shall meet the definition of developmental disability set forth in W&I Code section 4512(a)(1) to be eligible for ongoing regional center services at five years of age.

Regional center services for a child who was provisionally eligible and who does not meet the definition in W&I Code section 4512(a)(1) shall end when the child is five years of age. If an appeal of the finding of ineligibility is filed no later than 10 days after receipt of the notice of the proposed action, regional center services the child was receiving while provisionally eligible shall continue during the appeal process as outlined in W&I Code section 4715.

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Regional Center Case Transfers

Pursuant to W&I Code section 4643.5, if a child has been determined to be provisionally eligible for services by a regional center, the child shall also be considered provisionally eligible by any other regional center until their fifth birthday if the child has moved to another location within the state.

Status Code “U”

The Department of Developmental Services worked with regional center representatives and SANDIS to add new status code “U” to be used for coding children who are determined provisionally eligible. Status code “U” is available for use now. Please inform your case management staff, system operators and other staff, as needed, of the purpose of the new status code.

Regional centers should immediately begin providing information to and educating their local communities about provisional eligibility.

If you have any questions regarding this correspondence, please contact me at brian.winfield@dds.ca.gov or (916) 654-1897.

Sincerely,

Original Signed by:

BRIAN WINFIELD
Chief Deputy Director

Enclosure

cc: Regional Center Administrators
Regional Center Directors of Consumer Services
Regional Center Community Services Directors
Association of Regional Center Agencies
Nancy Bargmann, Department of Developmental Services
Erica Reimer Snell, Department of Developmental Services
Maricris Acon, Department of Developmental Services
Jim Switzgable, Department of Developmental Services

Lanterman Act Eligibility Criteria

Lanterman Act Eligibility	Lanterman Act Provisional Eligibility
<p>All of the following must be met:</p> <ul style="list-style-type: none"> • Diagnosed with an intellectual disability, autism, epilepsy, cerebral palsy, and/or other disability that closely resembles an intellectual disability and/or results in the individual requiring similar services to an individual with intellectual disabilities • The disability originates prior to age 18, is expected to be lifelong and constitutes a substantial disability for the individual <ul style="list-style-type: none"> ○ “Substantial disability” means significant functional limitations in three or more of the following areas: <ul style="list-style-type: none"> ▪ Self-care ▪ Receptive and expressive language ▪ Learning ▪ Mobility ▪ Self-direction ▪ Capacity for independent living ▪ Economic self-sufficiency 	<p>All of the following must be met:</p> <ul style="list-style-type: none"> • Child is three or four years of age • The disability is not solely physical in nature and the child has significant functional limitations in at least two of the following areas of major life activity: <ul style="list-style-type: none"> ○ Self-care ○ Receptive and expressive language ○ Learning ○ Mobility ○ Self-direction