

**Title 23: Division of Medicaid**

**Part 208: Home and Community-Based Services (HCBS) Long Term Care**

**Chapter 1: Home and Community-Based Services (HCBS) Elderly and Disabled Waiver**

*Rule 1.2: Eligibility*

- A. Eligibility requirements for the Elderly & Disabled (E&D) Waiver Program include the following:
1. Persons must be twenty-one (21) years of age or older.
  2. Persons must require nursing facility level of care as determined by a standardized comprehensive preadmission screening tool.
  3. A person's nursing facility level of care must be certified by a physician and recertified every twelve (12) months at a minimum.
  4. Persons must be in one of the following Categories of Eligibility (COE):
    - a. SSI, or
    - b. An aged, blind, or disabled individual who meets all factors of eligibility if income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible.
- B. Persons enrolled in the E & D Waiver cannot reside in a nursing facility or licensed or unlicensed personal care home and are prohibited from receiving additional Medicaid services through another waiver program.
- C. Persons enrolled in the E & D Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 USC § 1396n; 42 CFR §§ 435.217, 440.180, 441.301; Miss. Code Ann. § 43-13-121.

History: Revised eff. 06/01/2016; Revised eff. 01/01/2013.

**Part 208 Chapter 2: Home and Community-Based Services (HCBS) Independent Living Waiver**

*Rule 2.2: Eligibility*

- A. Eligibility is limited to individuals age sixteen (16) or older who:
1. Exhibit severe orthopedic and/or neurological impairments that render the individual dependent on others, assistive devices, other types of assistance, or a combination of the three (3) to accomplish the activities of daily living.
  2. Are able to express ideas and wants either verbally or nonverbally with caregivers, personal care attendants (PCAs), counselors, case managers or others involved in their care.
  3. Are certified as medically stable by their physician. Medicaid defines medical stability as the absence of all of the following:
    - a) An active, life-threatening condition requiring systematic therapeutic measures,
    - b) Intravenous drip to control or support blood pressure, and
    - c) Intracranial pressure or arterial monitoring.
- B. Clinical eligibility for waiver services is determined through a comprehensive Pre-Admission Screening (PAS) tool that includes but is not limited to the following areas: activities of daily living, instrumental activities of daily living, sensory deficits, cognitive deficits, client behaviors, medical conditions, and medical services.
- C. Pre-admission screening data, entered into a scoring algorithm generating a numerical score, is compared to a set numerical threshold and determines clinical eligibility.
- D. Individuals must qualify for full Medicaid benefits in one (1) of the following Categories of Eligibility (COE):
1. SSI,
  2. Low Income Families and Children Program,
  3. Disabled Child Living at Home,
  4. Children Under Age Nineteen (19) Under One Hundred Percent (100%) Federal Poverty Level,
  5. Disabled Adult Child,
  6. Protected Foster Care Adolescents,
  7. Child Welfare Services (CWS) Foster Children and Adoption Assistance Children,

8. IV-E Foster Children and Adoption Assistance Children,
9. An aged, blind, or disabled individual who meets all factors of eligibility if income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible, or
10. Working Disabled.

E. Persons enrolled in the Independent Living Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 USC § 1396n; 42 CFR § 441.301(b)(6); 42 CFR § 435.217; Miss. Code Ann. §§ 43-13-115, 43-13-121.

History: Added Miss. Admin. Code Part 208, Rule 2.2.E. eff. 06/01/2016; Revised eff. 01/01/2013.

### **Part 208 Chapter 3: Home and Community-Based Services (HCBS) Assisted Living Waiver**

#### *Rule 3.2: Eligibility*

- A. To be eligible for the Assisted Living Waiver Program a waiver participant must:
  1. Be twenty-one (21) years of age or older,
  2. Require nursing facility level of care as determined by a standardized comprehensive preadmission screening, and
  3. Be in the Social Security Income (SSI) Category of Eligibility (COE) or an aged, blind, or disabled individual who meets all factors of eligibility if income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible. The individual must also meet the resource limit as set by the Division of Medicaid.
- B. To be eligible for care in a Traumatic Brain Injury Residential facility a participant must:
  1. Meet all the requirements in Miss. Admin. Code Part 208, Rule 3.2.A.,
  2. Have a diagnosis of an acquired traumatic brain injury defined by the Division of

Medicaid as a non-degenerative structural brain damage excluding a brain injury that is congenital or due to injuries induced by birth trauma,

3. Have completed acute rehabilitation treatment,
  4. Be in a crisis/high stress environment with behavioral needs which place the participant at high risk for institutionalization,
  5. Have documentation as to why the services could not be provided inside the State of Mississippi, and
  6. Have an Executive Director's Letter of Approval for Out of State Placement.
- C. Persons enrolled in the Assisted Living Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 CFR § 440.180; Miss. Code Ann. § 43-13-121.

History: Added Miss. Admin. Code, Part 208, Rule 3.2.C. eff. 06/01/2016; Added Miss. Admin. Code, Part 208, Rule 3.2.B. to correspond with the AL Waiver renewal (eff. 10/01/2013) eff. 05/01/2014.

## **Part 208 Chapter 4: Home and Community-Based Services (HCBS) Traumatic Brain Injury/Spinal Cord Injury Waiver**

### *Rule 4.2: Eligibility*

- A. Eligibility is limited to individuals with the following disease(s) or condition(s):
1. Traumatic brain injury which the Division of Medicaid defines as an insult to the skull, brain, or its covering resulting from external trauma, which produces an altered state of consciousness or anatomic, motor, sensory, or cognitive/behavioral deficits.
  2. Spinal cord injury which the Division of Medicaid defines as a traumatic injury to the spinal cord or cauda equina with evidence of motor deficit, sensory deficit, and/or bowel and bladder dysfunction. The lesions must have significant involvement with two (2) of the above three (3) deficits.
- B. The extent of injury must be certified by the physician.
- C. Brain or spinal cord injury that is due to a degenerative or congenital condition, or that result, intentionally or unintentionally, from medical intervention, is excluded.
- D. Individuals must be certified as medically stable by their physician. The Division of Medicaid defines medically stable as the absence of all of the following:

1. An active, life threatening condition requiring systematic therapeutic measures.
  2. Intravenous drip to control or support blood pressure.
  3. Intracranial pressure or arterial monitoring.
- E. Individuals must qualify for full Medicaid benefits in one (1) of the following Categories of Eligibility (COE):
1. SSI,
  2. Low Income Families and Children Program,
  3. Disabled Child Living at home program,
  4. Working Disabled,
  5. Children under age nineteen (19) under one hundred percent (100%) of poverty,
  6. Disabled Adult Child,
  7. Protected Foster Care Adolescents,
  8. CWS Foster Children and Adoption Assistance Children,
  9. IV-E Foster Children and Adoption Assistance Children, or
  10. An aged, blind, or disabled individual who meets all factors of eligibility if their income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible.
- F. Persons enrolled in the TBI/SCI Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 CFR §§ 440.180, 441.301 (b)(6); Miss. Code Ann. §§ 43-13-115, 43-13-121.

History: Added Miss. Admin. Code Part 208, Rule 4.2.F. eff. 06/01/2016.

**Part 208 Chapter 5: Home and Community-Based Services (HCBS) Intellectual Disabilities/Developmental Disabilities Waiver**

*Rule 5.1: Eligibility*

- A. Intellectual Disabilities/Developmental Disabilities (ID/DD) Waiver services are services covered by the Division of Medicaid as an alternative to institutionalization in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) which:
1. Are operated jointly with the Mississippi Department of Mental Health (DMH). The Division of Medicaid is the single state Medicaid agency having administrative responsibility in the administration and supervision of the ID/DD Waiver. DMH is responsible for the daily operation of the ID/DD Waiver,
  2. Are available statewide, and
  3. Carry no age restrictions for eligibility.
- B. All of the following eligibility requirements must be met to receive ID/DD Waiver services:
1. Applicant must require a level of care (LOC) found in an ICF/IID.
  2. Applicant must qualify for full Medicaid benefits in one (1) of the following eligibility categories:
    - a) Supplemental Security Income (SSI),
    - b) Parents and Other Caretaker Relatives Program,
    - c) Disabled Child Living at Home Program,
    - d) Working Disabled,
    - e) Infants and Children Under Age Nineteen (19), up to one hundred thirty-three percent (133%) of the Federal Poverty Level,
    - f) Protected Foster Care Adolescents,
    - g) Child Welfare Services (CWS) Foster Children and Adoption Assistance Children,
    - h) Title IV-E Foster Children and Adoption Assistance Children,
    - i) An aged, blind, or disabled individual whose income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible.
  3. Applicant must have one (1) of the following:

- a) An intellectual disability based on the following criteria:
  - 1) An IQ score of approximately seventy (70) or below,
  - 2) A determination of deficits in adaptive behavior, and
  - 3) Disability which manifested prior to the age of eighteen (18).
- b) A developmental disability, defined by the Division of Medicaid as a severe, chronic disability attributable to a mental or physical impairment including, but not limited to, cerebral palsy, epilepsy, or any other condition other than mental illness found to be closely related to an intellectual disability that results in impairments requiring similar treatment or services. A developmental disability must:
  - 1) Have manifested prior to age twenty-two (22) and be likely to continue indefinitely,
  - 2) Result in substantial functional limitations in three (3) or more of the following major life activities:
    - (a) Self-care,
    - (b) Understanding and use of language,
    - (c) Learning,
    - (d) Mobility,
    - (e) Self-direction, or
    - (f) Capacity for independent living.
  - 3) Include individuals with a developmental delay, specific congenital or acquired condition from birth to age nine (9) that does not result in functional limitations in three (3) or more major life activities, but without services and supports would have a high probability of having three (3) or more functional limitations later in life, and
  - 4) Require a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of individually planned and coordinated assistance that is life-long or of an extended duration.
- c) Autism as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association.

C. Persons enrolled in the ID/DD Waiver can only be enrolled in one (1) HCBS waiver program

at a time and must receive at least one (1) service a month to remain eligible for the ID/DD Waiver, and the provision of waiver services at least monthly or, if the need for services is less than monthly, the participant requires regular monthly monitoring which must be documented in the service plan.

D. Persons enrolled in the ID/DD Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 USC § 1396n; 42 CFR § 440.180; Miss. Code Ann. § 43-13-121.

History: Added Miss. Admin. Code Part 208, Rule 5.1.D. eff. 06/01/2016; Revised to reflect changes with the ID/DD Waiver renewal (eff. 07/01/2013) eff. 09/01/2015.



**Title 23: Division of Medicaid**

**Part 208: Home and Community-Based Services (HCBS) Long Term Care**

**Chapter 1: Home and Community-Based Services (HCBS) Elderly and Disabled Waiver**

*Rule 1.2: Eligibility*

- A. Eligibility requirements for the Elderly & Disabled (E&D) Waiver Program include the following:
1. Persons must be twenty-one (21) years of age or older.
  2. Persons must require nursing facility level of care as determined by a standardized comprehensive preadmission screening tool.
  3. A ~~P~~erson's Nursing Facility level of care must be certified by a physician and recertified every twelve (12) months at a minimum.
  4. Persons must be in one of the following Categories of Eligibility (COE):
    - a. SSI, or
    - b. An aged, blind, or disabled individual who meets all factors of eligibility if income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible.
- B. Persons enrolled in the E & D Waiver cannot reside in a nursing facility or licensed or unlicensed personal care home and are prohibited from receiving additional Medicaid services through another waiver program.
- C. Persons enrolled in the E & D Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 USC § 1396n; 42 CFR §§ 435.217, 440.180, 441.301; Miss. Code Ann. § 43-13-121.

History: Revised eff. 06/01/2016; Revised eff. 01/01/2013.

**Part 208 Chapter 2: Home and Community-Based Services (HCBS) Independent Living Waiver**

*Rule 2.2: Eligibility*

- A. Eligibility is limited to individuals age sixteen (16) or older who:
1. Exhibit severe orthopedic and/or neurological impairments that render the individual dependent on others, assistive devices, other types of assistance, or a combination of the three (3) to accomplish the activities of daily living.
  2. Are able to express ideas and wants either verbally or nonverbally with caregivers, personal care attendants (PCAs), counselors, case managers or others involved in their care.
  3. Are certified as medically stable by their physician. Medicaid defines medical stability as the absence of all of the following:
    - a) An active, life-threatening condition requiring systematic therapeutic measures,
    - b) Intravenous drip to control or support blood pressure, and
    - c) Intracranial pressure or arterial monitoring.
- B. Clinical eligibility for waiver services is determined through a comprehensive Pre-Admission Screening (PAS) tool that includes but is not limited to the following areas: activities of daily living, instrumental activities of daily living, sensory deficits, cognitive deficits, client behaviors, medical conditions, and medical services.
- C. Pre-admission screening data, entered into a scoring algorithm generating a numerical score, is compared to a set numerical threshold and determines clinical eligibility.
- D. Individuals must qualify for full Medicaid benefits in one (1) of the following Categories of Eligibility (COE):
1. SSI,
  2. Low Income Families and Children Program,
  3. Disabled Child Living at Home,
  4. Children Under Age Nineteen (19) Under One Hundred Percent (100%) Federal Poverty Level,
  5. Disabled Adult Child,
  6. Protected Foster Care Adolescents,
  7. Child Welfare Services (CWS) Foster Children and Adoption Assistance Children,

8. IV-E Foster Children and Adoption Assistance Children,
9. An aged, blind, or disabled individual who meets all factors of eligibility if income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible, or
10. Working Disabled.

E. Persons enrolled in the Independent Living Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

| Source: 42 USC § 1396n; 42 CFR § 441.301(b)(6); 42 CFR § 435.217; Miss. Code Ann. §§ 43-13-115, 43-13-121.

History: Added Miss. Admin. Code Part 208, Rule 2.2.E. eff. 06/01/2016; Revised eff. 01/01/2013.

### **Part 208 Chapter 3: Home and Community-Based Services (HCBS) Assisted Living Waiver**

#### *Rule 3.2: Eligibility*

- A. To be eligible for the Assisted Living Waiver Program a waiver participant must:
  1. Be twenty-one (21) years of age or older,
  2. Require nursing facility level of care as determined by a standardized comprehensive preadmission screening, and
  3. Be in the Social Security Income (SSI) Category of Eligibility (COE) or an aged, blind, or disabled individual who meets all factors of eligibility if income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible. The individual must also meet the resource limit as set by the Division of Medicaid.
- B. To be eligible for care in a Traumatic Brain Injury Residential facility a participant must:
  1. Meet all the requirements in Miss. Admin. Code Part 208, Rule 3.2.A.,
  2. Have a diagnosis of an acquired traumatic brain injury defined by the Division of

Medicaid as a non-degenerative structural brain damage excluding a brain injury that is congenital or due to injuries induced by birth trauma,

3. Have completed acute rehabilitation treatment,
  4. Be in a crisis/high stress environment with behavioral needs which place the participant at high risk for institutionalization,
  5. Have documentation as to why the services could not be provided inside the State of Mississippi, and
  6. Have an Executive Director's Letter of Approval for Out of State Placement.
- C. Persons enrolled in the Assisted Living Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 CFR § 440.180; Miss. Code Ann. § 43-13-121.

History: Added Miss. Admin. Code, Part 208, Rule 3.2.C. eff. 06/01/2016; Added Miss. Admin. Code, Part 208, Rule 3.2.B. to correspond with the AL Waiver renewal (eff. 10/01/2013) eff. 05/01/2014.

#### **Part 208 Chapter 4: Home and Community-Based Services (HCBS) Traumatic Brain Injury/Spinal Cord Injury Waiver**

##### *Rule 4.2: Eligibility*

- A. Eligibility is limited to individuals with the following disease(s) or condition(s):
1. Traumatic brain injury which the Division of Medicaid defines as an insult to the skull, brain, or its covering resulting from external trauma, which produces an altered state of consciousness or anatomic, motor, sensory, or cognitive/behavioral deficits.
  2. Spinal cord injury which the Division of Medicaid defines as a traumatic injury to the spinal cord or cauda equina with evidence of motor deficit, sensory deficit, and/or bowel and bladder dysfunction. The lesions must have significant involvement with two (2) of the above three (3) deficits.
- B. The extent of injury must be certified by the physician.
- C. Brain or spinal cord injury that is due to a degenerative or congenital condition, or that result, intentionally or unintentionally, from medical intervention, is excluded.
- D. Individuals must be certified as medically stable by their physician. The Division of Medicaid defines medically stable as the absence of all of the following:

1. An active, life threatening condition requiring systematic therapeutic measures.
  2. Intravenous drip to control or support blood pressure.
  3. Intracranial pressure or arterial monitoring.
- E. Individuals must qualify for full Medicaid benefits in one (1) of the following Categories of Eligibility (COE):
1. SSI,
  2. Low Income Families and Children Program,
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  4. Working Disabled,
  5. Children under age nineteen (19) under one hundred percent (100%) of poverty,
  6. Disabled Adult Child,
  7. Protected Foster Care Adolescents,
  8. CWS Foster Children and Adoption Assistance Children,
  9. IV-E Foster Children and Adoption Assistance Children, or
  10. An aged, blind, or disabled individual who meets all factors of eligibility if their income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount that is over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible.
- F. Persons enrolled in the TBI/SCI Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

Source: 42 CFR §§ 440.180, 441.301 (b)(6); Miss. Code Ann. §§ 43-13-115, 43-13-121.

History: Added Miss. Admin. Code Part 208, Rule 4.2.F. eff. 06/01/2016.

**Part 208 Chapter 5: Home and Community-Based Services (HCBS) Intellectual Disabilities/Developmental Disabilities Waiver**

*Rule 5.1: Eligibility*

- A. Intellectual Disabilities/Developmental Disabilities (ID/DD) Waiver services are services covered by the Division of Medicaid as an alternative to institutionalization in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) which:
1. Are operated jointly with the Mississippi Department of Mental Health (DMH). The Division of Medicaid is the single state Medicaid agency having administrative responsibility in the administration and supervision of the ID/DD Waiver. DMH is responsible for the daily operation of the ID/DD Waiver,
  2. Are available statewide, and
  3. Carry no age restrictions for eligibility.
- B. All of the following eligibility requirements must be met to receive ID/DD Waiver services:
1. Applicant must require a level of care (LOC) found in an ICF/IID.
  2. Applicant must qualify for full Medicaid benefits in one (1) of the following eligibility categories:
    - a) Supplemental Security Income (SSI),
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    - e) Infants and Children Under Age Nineteen (19), up to one hundred thirty-three percent (133%) of the Federal Poverty Level,
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    - i) An aged, blind, or disabled individual whose income is under three hundred percent (300%) of the SSI limit for an individual. If income exceeds the three hundred percent (300%) limit, the individual must pay the amount over the limit each month to the Division of Medicaid under an Income Trust, provided the individual is otherwise eligible.
  3. Applicant must have one (1) of the following:

- a) An intellectual disability based on the following criteria:
  - 1) An IQ score of approximately seventy (70) or below,
  - 2) A determination of deficits in adaptive behavior, and
  - 3) Disability which manifested prior to the age of eighteen (18).
  
- b) A developmental disability, defined by the Division of Medicaid as a severe, chronic disability attributable to a mental or physical impairment including, but not limited to, cerebral palsy, epilepsy, or any other condition other than mental illness found to be closely related to an intellectual disability that results in impairments requiring similar treatment or services. A developmental disability must:
  - 1) Have manifested prior to age twenty-two (22) and be likely to continue indefinitely,
  - 2) Result in substantial functional limitations in three (3) or more of the following major life activities:
    - (a) Self-care,
    - (b) Understanding and use of language,
    - (c) Learning,
    - (d) Mobility,
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    - (f) Capacity for independent living.
  - 3) Include individuals with a developmental delay, specific congenital or acquired condition from birth to age nine (9) that does not result in functional limitations in three (3) or more major life activities, but without services and supports would have a high probability of having three (3) or more functional limitations later in life, and
  - 4) Require a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of individually planned and coordinated assistance that is life-long or of an extended duration.
  
- c) Autism as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association.

C. Persons enrolled in the ID/DD Waiver can only be enrolled in one (1) HCBS waiver program

at a time and must receive at least one (1) service a month to remain eligible for the ID/DD Waiver, and the provision of waiver services at least monthly or, if the need for services is less than monthly, the participant requires regular monthly monitoring which must be documented in the service plan.

D. Persons enrolled in the ID/DD Waiver who elect to receive hospice care may not receive waiver services which are duplicative of any services rendered through hospice. Persons may receive non-duplicative waiver services in coordination with hospice services.

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History: Added Miss. Admin. Code Part 208, Rule 5.1.D. eff. 06/01/2016; Revised to reflect changes with the ID/DD Waiver renewal (eff. 07/01/2013) eff. 09/01/2015.