

**Center for Persons with Disabilities**

Up to 3 Eligibility Criteria Policy Procedure

**Purpose:**

The purpose of this policy is to define the eligibility criteria for the Up to 3 program under Baby Watch Early Intervention Program (BWEIP); the procedures for eligibility determination; and to ensure that all initial and ongoing eligibility determinations for Up to 3 (EI) are made in accordance with the BWEIP policies and part C of the Individuals with Disabilities Education Improvement Act.

**Definition(s):**

**At-Risk Infant or Toddler:**

An at-risk infant or toddler is a child under three (3) years of age who would be at-risk of experiencing a

substantial developmental delay if EI services were not provided. This may include a child who is at-risk

of experiencing developmental delays because of biological or environmental factors that can be

identified.

**Early Intervention (EI) Services:**

Early Intervention (EI) services are developmental services that

* Are provided under public supervision;
* Are selected in collaboration with the parents;
* Are provided at no cost, except, where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;
* Are designed to meet the developmental needs of an infant or toddler with a disability and the

needs of the family to assist appropriately in the infant’s or toddler’s development, as identified by the IFSP team;

* Meet the standards of Utah and part C, in which EI services are provided, including the

requirements of part C;

* Are provided by qualified personnel;
* To the maximum extent appropriate, are provided in natural environments; and
* Are provided in conformity with an IFSP.

**Infant or Toddler with a Disability (Child):**

A child under three (3) years of age who needs EI services because s/he is experiencing a

developmental delay in one or more of the following areas:

• Cognitive development;

• Physical development, including vision and hearing;

• Expressive and receptive communication development;

• Social or emotional development;

• Adaptive development; or

• Is diagnosed with a physical or mental condition that has a high probability of resulting in a

developmental delay.

**Principles and Procedures: Up to 3 will comply with the following guidelines**

**A. Definition of Developmental Delay for Initial Eligibility.**

1. In Utah, a child is considered to be experiencing a developmental delay that establishes eligibility for part C services if, as measured by appropriate diagnostic instruments and procedures, the child exhibits a delay of 1.5 standard deviations at or below the mean, or at or below the 7th percentile in one or more of the following areas of development :

a. Cognitive development;

b. Physical development;

c. Expressive and receptive communication development;

d. Social or emotional development; and/or

e. Adaptive development.

1. Children enrolled in the Parent Infant Program for the Blind and Visually Impaired, the Parent

Infant Program for the Deaf and Hard of Hearing, or the Deaf-Blind Program of the Utah Schools for the Deaf and the Blind are automatically eligible for the Up to 3.

**B. Evaluation and Assessment Procedures to Establish Eligibility and Measure a Child's Development**

1. Procedures for evaluation and assessment to measure a child's development include an evaluation, by qualified personnel, of the child's level of functioning in each of the areas of development as listed in IV A. a-e. above. This evaluation may be used to establish a developmental delay, according to Utah's definition above, in one or more areas.
   1. Standardized, norm-referenced measures can be used as a multi-domain testing process or in single areas of stated concern to provide standard scores (standard deviation or percentile). The qualified professionals completing the evaluation utilize their professional experience and expertise (informed clinical opinion) when considering the evaluation results.
   2. Informed clinical opinion is used for each child to support, augment, or validate the final information and findings.
2. Informed clinical opinion shall be used as an independent basis to establish a child’s eligibility

even when other instruments do not establish eligibility. Eligibility through utilization of informed clinical opinion must be determined through a multidisciplinary evaluation and assessment, by two qualified professionals representing different disciplines, one of whom must be credentialed by the BWEIP as an Early Interventionist Specialist, and who have knowledge and expertise in the areas of stated concern identified by the parents or referral source.

1. In no event may informed clinical opinion be used to negate the results of evaluation

instruments used to establish eligibility.

1. A child’s medical and other records may be used to establish eligibility (without conducting an

evaluation of the child), if those records indicate that the child’s level of

functioning in one or more of the developmental areas constitutes a developmental delay or that a child has a diagnosed condition that may result in a developmental delay according to the

BWEIP Approved Diagnosis/Conditions List.

1. All evaluations and assessments of the child and family must be conducted by qualified

personnel, in a nondiscriminatory manner, and selected and administered so as not to be

racially or culturally discriminatory.

1. All evaluations and assessments of a child and family assessments shall be conducted in the

native language of the family members being assessed unless clearly not feasible to do so, such as

a. The language normally used by the parents of the child and/or the language used by the child

b. Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the parent/child (such as sign language, braille, or oral communication). These evaluations are typically provided by Parent Infant Program, Utah Schools for the Deaf and Blind.

**C. Eligibility Based on a Diagnosed Condition.**

1. A child is eligible for EI services when s/he has a diagnosed physical or mental condition that

has a high probability of resulting in a developmental delay.

a. The established BWEIP Approved Diagnosis List shall be used when determining a child is eligible for Up to 3 services (See Attachment 1).

b. To establish eligibility using a diagnosis not included on the list, Up to 3 providers shall:

1. Contact the BWEIP office for approval to use the diagnosed condition to establish eligibility.
2. Include information from the diagnostic work-up, including physician reports and recommendations; and
3. Include other supporting research or data, e.g., research journal articles, text information, etc., which supports the fact that a child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

c. When a diagnosed condition is used to establish eligibility, diagnostic reports or supporting

data will be included in the child’s file for verification of eligibility.

1. The Up to 3 nurse reviews the diagnostic report before eligibility is established and documents the date of review on the report.
2. The date the report is reviewed is also included in the Up to 3 eligibility documentation.

d. When a child has both an established condition and a developmental delay, the established condition takes precedence as the reason for eligibility.

**D. Definition of Developmental Delay for On-Going Up to 3 Eligibility**

1. Up to 3 eligibility shall be determined annually. Appropriate evaluations and assessments

shall be reviewed and/or completed within thirty (30) days of the anniversary of the child’s initial

or previous IFSP.

1. A child continues to be eligible for EI services who has:
   1. A diagnosed physical or mental condition (See Section C); or

b. A delay greater than one (1.0) standard deviation below the mean or below the sixteenth (16th) percentile in any developmental domain; or

c. Met the eligibility criteria due to an Informed Clinical Opinion.

**E. Procedures for Parental Notification of Eligibility Determination.**

1. When, based on the initial evaluation, Up to 3 determines that a child is eligible or is not

eligible for EI services, Up to 3 will provide the parent with prior written notice and

include in the notice information about the parent’s right to dispute the eligibility determination.

a. The Up to 3 Notice of Eligibility/Non-eligibility will be used. We will provide the family a copy of the Baby Watch Parent Rights Booklet or inform them of where this is available online if they decline a copy of it at annual eligibility.

2. Documentation supporting evaluation results must be maintained. The results of any

evaluations including standard deviations/percentiles, diagnostic research, and/or informed

clinical opinions of those performing eligibility determinations must be kept in the child’s file and electronic btots record.