

**CABINET FOR HEALTH AND FAMILY SERVICES**

**Department for Public Health**

**Division of Maternal and Child Health**

**(Amended at ARRS Committee)**

**902 KAR 30:120. Evaluation and eligibility.**

RELATES TO: KRS 200.654, 200.668, 211.647, 216.2970, 34 C.F.R. 303.322, 303.421

STATUTORY AUTHORITY: KRS 194A.050, 200.660(7), 34 C.F.R. 303.300, 303.321, 20 U.S.C. 1434

NECESSITY, FUNCTION, AND CONFORMITY: KRS 200.660 requires the Cabinet for Health and Family Services to administer funds to implement the provisions of KRS 200.650 to 200.676, to enter into contracts with service providers, and to promulgate administrative regulations. This administrative regulation establishes the evaluation, eligibility, and redetermination of eligibility requirements for the Kentucky Early Intervention System (KEIS).

**Section 1. Initial Eligibility.**

(1) Initial eligibility shall be determined by the review of:

- (a) The results of at least one (1) multi-domain evaluation instrument designed to confirm the presence of a significant developmental delay;
- (b) Information about the infant or toddler's developmental history through parent interview;
- (c) Identification of the infant or toddler's level of functioning in each developmental area;
- (d) Information from other sources, such as childcare workers; and
- (e) All available relevant medical and educational records.

(2) An infant or toddler shall be eligible for services if the infant or toddler:

- (a) Is between birth and three (3) years of age;
- (b) Is a resident of Kentucky or homeless within the boundaries of the state at the time of referral and resides in Kentucky while receiving early intervention services; and
- (c)
  - 1. Has a documented established risk condition that has a high probability of resulting in developmental delay; or
  - 2. Is determined to have a significant developmental delay based on the evaluation and assessment process.

(3) Eligibility by established risk conditions:

(a) In accordance with KRS 200.654(10)(b), an infant or toddler meeting the criteria established in subsection (1)(a) and (b) of this section with a suspected established risk condition shall be eligible once the diagnosis is confirmed by a physician. The established risk condition shall be documented in the infant or toddler's record through the KEIS online data management system.

(b) The Kentucky Early Intervention System Established Risk Conditions list shall be maintained by KEIS .

1. An infant or toddler with an established risk shall have a five (5) area assessment, assessing the five (5) areas listed in subsection (4)(a) of this section, completed by a primary level evaluator using a cabinet-approved, criterion-referenced assessment instrument in lieu of a norm-referenced evaluation, in accordance with 902 KAR 30:130.

2. If the established risk condition relates to hearing loss, the five (5) area assessment shall be performed by a speech therapist or a teacher of the deaf and hard of hearing.

(4) Eligibility by developmental delay:

(a) An infant or toddler meeting the criteria established in subsection (2)(a) and (b) of this section shall be eligible for services if the infant or toddler is determined to have a developmental delay, based on the evaluation and assessment process, in one (1) or more of the following domains of development:

1. Total cognitive development;
2. Total communication area through speech and language development, that shall include expressive and receptive language;
3. Total physical development including motor development, vision, hearing, and general health status;
4. Total social and emotional development; or
5. Total adaptive skills development.

(b) Evidence of a developmental delay shall be determined on a norm-referenced test by the infant or toddler's score that is:

1. Two (2) standard deviations below the mean in one (1) skill area; or
2. At least one and one-half (1 1/2) standard deviations below the mean in two (2) skill areas.

(c)

1. If a norm-referenced test reveals a delay in one (1) of the five (5) skill areas, but does not meet the eligibility criteria required by paragraph (b) of this subsection, a more in-depth standardized test in that area of development may be administered if the following is evident:

- a. The parent has a concern or suspects the infant or toddler's delay is greater than the testing revealed; and
- b. A different norm-referenced test tool reveals a standardized score that would meet eligibility criteria.

2. The results of the alternate testing required by subparagraph 1. of this paragraph shall be considered as part of the infant or toddler's eligibility if the standardized scores indicate a delay of at least two (2) standard deviations below the mean.

(5) Eligibility by professional judgment. An infant or toddler may be determined eligible by informed clinical opinion by the following multidisciplinary evaluation teams of professionals:

- (a) An approved neonatal follow-up program team, as described in 902 KAR 30:150 Section 2(3)(f);
- (b) An approved intensive level evaluation team, as described in 902 KAR 30:150 Section 2(3)(e); or
- (c) The designated record review team, if reviewing for eligibility.

Section 2. Initial Evaluation.

(1) Prior to the administration of an evaluation instrument, the infant or toddler's vision and hearing status shall be determined through screening or evaluation.

(2) An infant or toddler referred to KEIS who meets the criteria established in Section 1(2)(a) and (b) of this administrative regulation shall receive an initial evaluation if:

- (a) There is a suspected developmental delay confirmed by the cabinet-approved screening protocol;
- (b) The infant or toddler does not have an established risk diagnosis; and
- (c) The parent requests and consents to an evaluation that includes norm-referenced and criterion-referenced instruments.

(3) For an infant or toddler without an established risk diagnosis, an initial evaluation shall be used to:

- (a) Determine developmental status; and
- (b) Establish the baselines for progress monitoring.

(4) For an infant or toddler with an established risk diagnosis, a cabinet-approved criterion-referenced assessment shall be completed to:

- (a) Determine developmental status for program planning; and
- (b) Establish the baseline for progress monitoring.

(5)

(a) Initial evaluations shall include the five (5) developmental areas identified in Section 1(4)(a) of this administrative regulation using norm-referenced standardized instruments that provide a standard deviation score in the total domain for the five (5) areas and shall include a cabinet-approved criterion-referenced assessment instrument, in accordance with 902 KAR 30:130.

(b) The initial evaluation shall include:

1. A medical component completed by a qualified medical professional that includes:

- a. A complete history;
- b. Physical examination; and
- c. Other medical information; and

2. A developmental component completed by a cabinet-approved initial evaluator, in accordance with 902 KAR 30:150, that includes:

- a. A statement of the infant or toddler's health status during the evaluation, including notation of health issues that affect the results of the evaluation; and
- b. Completion of each appropriate instrument needed to determine the infant or toddler's unique strengths and needs.

(c) An evaluation report shall be entered into the KEIS data management system:

- 1. Within five (5) business days of the completion of the evaluation; and
- 2. In clear, concise language that is easily understood by the family.

(6) Infant or toddler records of evaluations transferred from a developmental evaluator outside the program shall be reviewed by the POE staff and shall be used for eligibility determination if:

(a) The records meet evaluation timelines established in subsection (7) of this section; and

(b) The records contain the developmental evaluation information required by subsection (5)(b) of this section.

(7) If there is a developmental evaluation available, as required by subsection (5)(b) of this section, it shall be considered as part of the infant or toddler's eligibility if the evaluation was performed within:

(a) Three (3) months prior to referral to KEIS for an infant under twelve (12) months of age; or

(b) Six (6) months prior to referral to KEIS for a toddler who is at least twelve (12) months up to three (3) years of age.

(8)

(a) An infant or toddler referred to KEIS who was born premature shall be evaluated and assessed using an adjusted gestational age to account for prematurity, unless the toddler is twenty-four (24) months of age or older at the time of the referral.

(b) For an infant who is less than six (6) months corrected age, the initial evaluation shall be done by an approved intensive level evaluation team, an approved neonatal follow-up program team, or an approved district child evaluation specialist in accordance with Section 1(5) of this administrative regulation.

(9) If the infant or toddler does not have an established risk diagnosis and is determined not eligible, the POE staff shall:

(a) Provide a Notice of Action (FS-9) in accordance with 34 C.F.R. 303.421; and

(b) Discuss available community resources.

(10) Eligibility for cases that are complex or have contradictory information from the initial evaluation shall be determined by record review. Upon receiving a referral, the record review team shall conduct a review of all available evidence and issue an eligibility determination within ten (10) calendar days.

### Section 3. Annual Redetermination of Eligibility.

- (1) A redetermination of eligibility shall occur at least annually.
- (2) An infant or toddler shall have continuing program eligibility for services if:
  - (a) The infant or toddler is eligible by age and residency; and
  - (b) The result of the most recent progress review, including the annual five (5) area assessment, demonstrates:
    1. A significant delay in at least one (1) or more developmental areas; and
    2. Continued services are required in order to support continuing developmental progress.
- (3) Based on the results of the redetermination of eligibility, the IFSP team shall:
  - (a) Continue with the same or modified outcomes and services; or
  - (b) Transition the infant or toddler from services.
- (4) Redetermination of eligibility shall not be used to address concerns that are medical in nature.
  - (a) The annual redetermination shall be part of the infant or toddler's ongoing assessment and shall include an assessment in all five (5) areas using a cabinet-approved criterion-referenced instrument, in accordance with 902 KAR 30:130, and shall be completed between thirty (30) and sixty (60) calendar days prior to the annual IFSP date.
  - (b) If a person directly involved in conducting the evaluation and assessments is unable to attend an IFSP meeting, arrangements shall be made for that person's involvement by other means including participating in an audio-only or audio-visual conference call, designating a representative to attend the meeting, or making records and reports available at the meeting.

### Section 4. Determination of Hearing Status.

- (1) If the referral is for an infant or toddler who has a diagnosis of a hearing loss, in accordance with KRS 200.654(10)(b), the infant or toddler shall be considered to have an established risk diagnosis and be eligible for services and the referral process shall continue.
- (2) If the referral is for an infant or toddler who is suspected of having a hearing loss, with no verification of degree of loss or diagnosis, and who is suspected of having developmental delays, the POE staff shall initiate the evaluation that shall include an audiological evaluation at a cabinet-approved Infant Audiological Assessment and Diagnostic Center as specified by KRS 211.647 and 216.2970.

### Section 5. Incorporation by Reference.

- (1) The following material is incorporated by reference:
    - (a) "Notice of Action (FS-9)", October 2021 edition; and
    - (b) "Kentucky Early Intervention System Established Risk Conditions", January 2022.
  - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.
  - (3) This material is available on the agency's Web site at <https://chfs.ky.gov/agencies/dph/dmch/ecdb/Pages/keis.aspx>.
- (23 Ky.R. 3133; Am. 3851; 4171; eff. 6-16-1997; 25 Ky.R. 661; 1407; eff. 1-19-1999; Recodified from 908 KAR 2:120, 10-25-2001; 30 Ky.R. 318; 619; 1287; eff. 9-16-2003; 31 Ky.R. 485; 1270; eff. 1-19-2005; Recodified from 911 KAR 2:120, 5-17-2010; 37 Ky.R.

518; 1259; 1665; eff. 2-4-2011; 39 Ky.R. 2410; 40 Ky.R. 839; eff. 10-16-2013; TAm eff. 5-16-2014; 2876; 41 Ky.R. 788; eff. 10-15-2014; Cert. eff. 6-15-2021; 48 Ky.R. 263; 49 Ky.R. 577; eff. 9-28-2022.)

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