

Policy Memo	
KDHE-DHCF POLICY NO: 2017-10-01	From: Jeanine Schieferecke
Date: October 24, 2017	KEESM Reference: 2662.3
RE: Disability Determination Services (DDS) Referrals	Program(s): Elderly & Disabled Medical

The purpose of this memo is to provide implementation instructions to eligibility staff related to completing Disability Determination Services (DDS) referrals. This memo does not contain new policy, but rather clarification of the existing policy with additional guidance on process.

The information contained in this memo is effective with the issuance of the memo, however some updates were made to KEESM effective 4/1/2017.

A. Background – To receive Medicaid coverage based on disability, the individual must be determined to be blind or disabled according to Social Security Administration (SSA) standards. However, in some instances, SSA will not make a disability determination because the individual is ineligible for SSA benefits due to non-medical reasons (i.e.: excess income or resources, insufficient work history, transfer of property penalty, applicant is deceased, etc.). In those instances, a referral to Presumptive Medical Disability Team (PMDT) pending an SSA decision would not be appropriate. Instead, a direct referral to Disability Determination Services (DDS) is required.

There are several steps in the process. Eligibility staff are responsible for securing initial information related to the declared disability and making the initial referral to DDS. DDS will review the information presented, request additional medical information, if warranted, render a decision and report back to eligibility staff. Eligibility staff are then responsible for implementing the DDS decision in making an eligibility determination.

B. Policy Clarification – To ensure uniformity in eligibility staff action, the referral process is being clarified in this memo. Eligibility staff are to identify and initiate the DDS referral process. Referral and communication between eligibility and DDS staff is accomplished through a series of forms. Referrals based on specific program types or situations require additional information. The fair hearing process for clients dissatisfied with a disability decision is somewhat different in that a reconsideration of the decision precedes an actual appeal of the decision. Lastly, DDS may set a future date where the original positive decision must be revisited to determine if disability continues.

The actual DDS referral process follows:

1. Referral to DDS – Referral, facilitation and communication between eligibility staff and DDS are accomplished via the following forms:

(a) DD-1103 – This is an authorization form allowing medical information about the individual to be released to KDHE-DHCF and DDS. Eligibility staff complete the identifying information at the top of the form. The form is then signed and dated by the individual (or someone authorized to act on behalf of the individual) at the bottom of the form. If the individual signs

with an "X", the signature must be witnessed and documented on the form. This form is used by DDS to obtain medical records from providers necessary to determine the individual's disability status.

One DD-1103 jointly completed by the individual and the agency is to be submitted with the referral to DDS.

- (b) DD-1104** – This is the actual referral form from eligibility staff to DDS. Eligibility staff are responsible for completing sections I. (Identifying Information) and II. (Referral Information) of the form. The eligibility worker must also sign and date the form. Once a disability decision has been made, DDS will complete sections III. (Disability Determination Information) and IV. (Referral and/or Recommendation Information), sign, date, and return the form to eligibility staff.

One DD-1104 completed by eligibility staff is to be submitted with the referral to DDS.

- (c) DD-1105** – This is the Disability Determination Data/Report form. The form is used to capture social, medical, educational, and work history of the individual. The form should be completed by the individual (or someone authorized to act on behalf of the individual) and returned to the agency.

One DD-1105 completed by the individual is to be submitted with the referral to DDS.

- (d) DD-1106** – This form is only used when an individual has been approved for SSI benefits through SSA and there is a pending medical assistance application for months prior to the SSI start date. Eligibility staff complete the identifying information, sign, date the form and forward to DDS. DDS will review the existing disability record, report the disability onset date, sign, date and return the form to the agency.

One DD-1106 completed by eligibility staff is to be submitted to DDS.

Note: Since this form is for a specific purpose, it should never be submitted in conjunction with the DD-1103, DD-1104, and DD-1105 used in the initial DDS referral process.

2. Specific Referrals – The following specific types of referrals require the inclusion of additional information due to the nature of the application for assistance.

- (a) SOBRA** – When a non-qualifying alien claiming disability applies for assistance, a referral to DDS is required if the applicant does not otherwise qualify for any non-disability programs. A referral to DDS using the DD-1104 shall be completed after the MS-2156 has been received from DXC indicating a qualifying event has occurred. The referral to DDS should clearly indicate that this is a SOBRA referral. In addition, the referral should include any medical

records obtained through the MS-2156 emergency services process. Eligibility staff must obtain medical records from DXC.

(b) Deceased Applicant – Assistance may be applied for on behalf of a deceased individual. However, as noted above, SSA will not make a disability determination for a deceased individual without an active application. Therefore a referral to DDS is necessary. The DD-1104 referral form should clearly indicate that this is a deceased individual and include the date of death. A copy of the death certificate (if available) should be attached, along with any medical records.

(c) Child – There are a couple of situations where it may be necessary to complete a referral to DDS for a child (i.e.: excess income or child is deceased).

(i) No Poverty Level Eligibility – Where there is no potential eligibility under Poverty Level Medicaid or CHIP for a child applicant, a referral to DDS shall be completed where the child claims a disability. While, eligibility for a child may be determined under a MAGI Medically Needy program, a determination for a Disability Medically Needy (MN) program often results in a lower spenddown and is therefore more beneficial for the applicant.

Referral via the DD-1104 form shall clearly indicate that this is a child referral. Again, any medical records should also be included.

(ii) Eligibility for Another Individual – In rare instances, the disability status of a non-applicant/recipient child is relevant to the eligibility of another individual. Even though the child is not seeking assistance, a DD-1104 referral for the child would be appropriate in order to determine the possible eligibility of another person. It is the responsibility of the applicant seeking assistance to complete the DD-1105 form and provide medical records for the child.

An example of this situation is when an elderly nursing home resident is applying for long term care coverage. The applicant has recently funded a special needs trust for a minor grandchild. In order for this not to be considered an inappropriate transfer subject to penalty, the grandchild must meet disability criteria. If the grandchild has not already been determined disabled through the Social Security Administration (SSA), a disability determination through DDS is required.

3. Reconsideration/Appeal – An individual has the right to appeal any adverse decision, including one rendered by DDS. There is a two part process involved when the individual appeals a negative DDS disability decision – reconsideration and fair hearing. Once the agency has received a request for fair hearing the following steps shall be taken.

(a) Reconsideration – An Appeal Summary should not be completed at this point. Instead, eligibility staff shall complete a new DD-1104 and forward to DDS, clearly indicating that this is a request for Reconsideration. In addition, the original DD-1104 and DD-1105, as well as a

new signed and dated DD-1103 should be attached. DDS will re-review the medical record, including any additional medical evidence that has been presented or obtained.

Based on the new (if any) and existing medical evidence, DDS will reconsider the original disability determination and render a new decision. The nature of that decision (positive or negative) will determine the next steps in the process.

(i) Positive Decision – If upon reconsideration the original negative determination is reversed, a positive decision will be rendered. Notification that the individual now meets disability criteria will be reported back to eligibility staff via the DD-1104. The application for assistance shall then be reprocessed based on the new disability finding. No additional action on the fair hearing request is needed.

(ii) Negative Decision – If upon reconsideration the original negative determination is confirmed, the disability status will remain unchanged. Notification of the decision will be transmitted back to eligibility staff for further action. Since the original negative decision stands, eligibility staff are now required to complete an Agency Summary. The Agency Summary and the reconsideration file returned by DDS should be forwarded to the Administrative Hearing Office (AHO). The Agency Summary should clearly indicate that this is a DDS appeal.

(b) Fair Hearing – Once the Appeal Summary and supporting documents have been received by the AHO, a fair hearing will then be scheduled. DDS (not the agency) will be responsible for representing and defending their disability decision at the hearing. Eligibility staff have no further action to take until the AHO decision is issued.

(i) Decision Confirmed – If the DDS decision is upheld by the AHO, no further case action by the agency is required. The individual does not meet disability criteria.

(ii) Decision Overturned – If the DDS decision is overturned by the AHO, the original application for assistance shall be reinstated and processed by eligibility staff based on the applicant meeting disability criteria.

Note: Either party (the applicant or DDS) may request a review of the AHO decision by the State Appeals Committee. In that event, no action on the case shall be taken until the State Appeals Committee has rendered a decision.

4. Continuation Review – Even though DDS has initially rendered a favorable decision, the disability status in most instances needs to be periodically reviewed, just like any other element of eligibility. When DDS makes a favorable decision, the DD-1104 will be returned to the agency indicating when the disability determination needs to be reviewed again (if ever) in the future. This is called the diary date. The diary date may be found in section IV.B. Eligibility staff shall make a re-referral to DDS on the diary date using the DD-1104. The re-referral should include all of the information used to make the original decision, including the original returned DD-1104 and DD-1105 forms.

DDS will then review the material to determine if the individual continues to meet disability criteria and return the DD-1104 to eligibility staff with the decision. If the decision is favorable, eligibility continues and no other case action is required. DDS will include a new diary date indicating when the next disability review (if any) will be required. If the decision is unfavorable, the individual no longer meets disability criteria. Adverse case action may be required.

There are a few additional issues for eligibility staff to note concerning the process surrounding the DDS diary date:

- (a) Intervening SSA Determination** – If the individual has applied for and been approved for SSA disability since the original DDS determination, but before the diary date, there is no longer a need to complete a re-referral to DDS. The SSA disability determination takes precedence over the DDS decision. Any future review of disability will be initiated and conducted by SSA internally. The Medical Conditions page in KEES should be updated with a change in disability type from DDS to SSA. In addition, the disability end date should be left blank (high dated).
- (b) Individual Turns 65** – Once the individual turns 65 years old, a disability determination is no longer required. Eligibility is then based on age, not disability. Similar to the situation above, there is no longer a need to make a re-referral to DDS based on a future diary date. It would be rare that this situation ever happens. Again, an update of the Medical Conditions page in KEES would be required.
- (c) Tracking Diary Date** – Tracking of the diary date is problematic since it may be several years from the date of the original disability decision. Therefore, tracking will be accomplished by the use of a monthly report based on data from the Medical Conditions page in KEES.

For all disability cases based on a DDS disability determination, staff shall enter a disability type of either DDS Blind or DDS Disabled. The disability start date is the first date of eligibility based on the disability determination. The disability end date is the diary date determined by DDS as reported on the DD-1104. The monthly report will then identify DDS cases where the disability end date expires in that month. Cases appearing on the report will then require a re-referral of the disabled individual by eligibility staff to DDS for a new disability determination.

Note: In some instances, DDS will determine that the disability is permanent. Those individuals will not require a re-referral to DDS in the future. DDS will indicate this on the DD-1104 form returned to eligibility staff. In these cases, since there is no diary date, staff shall leave the disability end date field blank (high dated) on the Medical Conditions page.

To facilitate the tracking process, the following actions are required:

- (i) Initial Approval** – A DDS disability type of either Blind or Disabled, the proper disability start date and the disability end date (DDS diary date) shall all be entered on the Medical Conditions page on all newly approved disability cases based on a DDS disability determination.

- (ii) Re-reviewed Cases** – An ongoing DDS disability case that has been identified on the DDS report based on the initial diary entered on the Medical Conditions page shall be re-referred to DDS by eligibility staff for a new disability determination. If DDS reports back to the agency with a positive decision, the new diary date from the DD-1104 shall be entered on the Medical Conditions page as the updated disability end date.

- (iii) Open DDS Case** – There may be open DDS disability cases where the diary date is not being properly tracked. If the case is touched for any other reason and the disability end date on the Medical Conditions page is blank (high dated), eligibility staff should review the original DD-1104 form to obtain the diary date. If the diary date is in the future, enter that date as the disability end date on the Medical Conditions page. If the diary date has already passed, an immediate re-referral to DDS should be completed. If the DD-1104 indicates that the disability is permanent, no further action is required (see the Note above).

C. Conclusion

For questions or concerns related to this document, please contact one of the KDHE Medical Eligibility Policy Staff listed below:

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