

**FREQUENTLY ASKED QUESTIONS #3 ON PROPOSED REGULATIONS AMENDMENTS TO THE
LEVEL OF CARE DETERMINATION PROCESS FOR WAIVER, COMMUNITY FIRST CHOICE AND INSTITUTIONAL SERVICES
FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES**

The following contains responses to questions received on proposed changes to IDD/CFC Level of Care regulations through the public comment period ending January 25, 2022. The questions have been grouped when substantially similar.

1. Does this regulation change impact people currently on a Home and Community Based Waiver (specifically IDD or ISW)?

Response: No. People who are currently on home and community-based waivers WILL NOT BE affected by these proposed changes. These regulations amendments do not alter the Program Eligibility requirements for the Individuals with Developmental Disabilities (IDD) waiver and the Individualized Supports Waiver (ISW) programs that are found under 7 AAC 130.206.

2. Why did the state propose adding substantial functional limitation criteria to the ICF/IID Level of Care Determination?

Response: The state proposed this change to ensure all individuals will be evaluated fairly and equitably, using the same criteria, for Level of Care (which affects eligibility for ICF/IID services, home and community-based waiver services, and regular Medicaid services available through the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) program). An added benefit of this change would be that someone on TEFRA wouldn't later be found ineligible for waiver services because they don't experience substantial functional limitations.

3. What is happening with the “substantial functional limitations” amendment to Level of Care criteria?

Response: The state has decided to not move forward with adding “substantial functional limitation” to the criteria for determining Level of Care, because the opportunity to claim additional federal funds that are available during COVID could be jeopardized by changing eligibility criteria at this time.

4. Why is the state proposing to allow Level of Care determinations to be made using other evaluation tools, and when would those be used?

Response: Assessment tools other than the ICAP would only be used by other states to make Level of Care determinations for recipients who are receiving services in ICF/IIDs in those states. The state has modified the amendment to 7 AAC 140.600(d) to make this clear.

5. What is the purpose of an Interim File Review and will it include an Inventory of Client and Agency Planning (ICAP) assessment?

Response: The purpose of using an Interim File Review process is to streamline the renewal process for both recipients and SDS for a waiver recipient who doesn't experience a change in condition. The recipient's most recent ICAP will be reviewed during an Interim File Review process instead of conducting another ICAP.