65G-4.014 Eligibility for Agency Services – Definitions.

(1) Autism means any condition which is part of the autism spectrum disorder and which meets the requirements of Florida Statute 393.063, which are that the condition is:

(a) Pervasive, meaning always present and without interruption,
(b) Neurologically based, meaning that the condition is not the result of physical impairment,
(c) A developmental disability,
(d) With extended duration, meaning that the condition can reasonably be expected to continue indefinitely into the future;
(e) Which causes all of the following:

1. Severe learning disorders, which may include but not be limited to:
   a. Executive dysfunction, exhibited by an inability to bring together various details from perception to make a meaningful whole
   b. A lack of cognitive central coherence which leads to impairment or deficits in the higher-order processes that enable planning, sequencing, initiating, and sustaining behavior towards some goal, incorporating feedback, and making adjustments
   c. Theory of mind deficit, exhibited by an inability to recognize that other people have thoughts, feelings, and intentions that are different to one’s own, and an inability to intuitively guess what these might be difficulty grasping pragmatic language skills
   d. A severe communication disorders, which may include but not be limited to:
      (I) A delay in, or total lack of, the development of spoken language having a marked impairment in the ability to initiate or sustain a conversation with others
      (II) Stereotyped and repetitive use of language or idiosyncratic language
      (III) Non-verbal communication problems exhibited by at least one of the following:
         (A) Limited uses of gestures
         (B) Clumsy/gauche body language
         (C) Limited facial expression
         (D) Inappropriate expression
         (E) Peculiar, stiff gaze
         (F) Motor clumsiness
   e. Severe behavior disorders, which may include but not be limited to:
      (I) Restrictive repetitive and stereotyped patterns of behavior, interests and activities, as manifested by any of the following:
         (II) Encompassing preoccupation with one or more stereotypes and restricted patterns of interest that is abnormal either in intensity or focus
         (III) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction
(IV) Apparently inflexible adherence to specific, nonfunctional routines or rituals

(V) Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)

(VI) Persistent preoccupation with parts of objects

(2) Cerebral Palsy – means a group of disabling symptoms of extended duration that result from damage to the developing brain during the prenatal period and characterized by paralysis, spasticity, or abnormal control of movement or posture, such as poor coordination or lack of balance, which is manifest prior to three years of age. For purposes of the rule, cerebral palsy also means the presence of other significant motor dysfunction appearing prior to age 18 due to perinatal or external events such as anoxia, oxygen deprivation, or traumatic brain injury. Excluded from this definition are motor dysfunction caused by medical events, including stroke or progressive diseases, such as muscular dystrophy. The impairment from cerebral palsy must constitute a substantial handicap which is reasonably expected to continue indefinitely.

(3) Mental Retardation or Intellectual Disability – is evidenced by the concurrent existence of:

(a) Significantly sub average general intellectual functioning evidenced by:

1. An Intelligence Quotient (IQ) of 70 or below on an individually administered IQ or for infants and young children, and
2. A clinical judgment of significantly sub average intellectual functioning;

(b) Deficits in adaptive functioning in one or more of the following areas

1. Communication skills,
2. Self-care, home living,
3. Social and interpersonal skills,
4. Use of community resources and self-direction,
5. Functional academic skills,
6. Work, leisure, health and safety awareness and skills,

(c) Which are manifested prior to age 18; and

(d) Constitute a substantial handicap which is reasonably expected to continue indefinitely.

(4) Prader-Willi Syndrome – means a non-inherited, genetic syndrome which is most often associated with a random deletion of chromosome 15. Commonly associated characteristics include diminished fetal activity, insatiable appetite and chronic overeating. Individuals diagnosed with Prader-Willi Syndrome generally have mental retardation; however, an individual with Prader-Willi syndrome can be determined as eligible for services without an accompanying diagnosis of mental retardation.

(5) Spina Bifida – for the purposes of Agency eligibility, spina bifida refers to a confirmed diagnosis of spina bifida cystica or myelomeningocele.
65G-4.015 Eligibility Criteria.
In order to be determined eligible for Agency services the applicant must:

1. Be at least three years of age.
2. Be a resident of and domiciled in the state of Florida in accordance with Sections 222.17(1) and (2), F.S. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien. Dependents of active duty military personnel stationed in the state of Florida are exempt from residency and domicile requirements.
3. Have a confirmed diagnosis of one of the following developmental disabilities as defined in this rule:
   a. Autism.
   b. Cerebral palsy.
   c. Mental retardation.
   d. Prader-Willi Syndrome.
   e. Spina Bifida, or
   f. Children between 3 and 5 years of age who are at high risk of later diagnosis of one of these disabilities. Such high risk children shall not be placed on the waiting list for waiver services until a confirmed diagnosis of a qualifying disability is given.

65G-4.016 Application Process.
1. Application for services from the Agency shall be made, by submitting an application by hand delivery, U.S. Mail or facsimile, to the Agency service area where the applicant resides. The application for services is available on the Agency website at www.APD.myflorida.com or by contacting the Agency.
2. Upon receipt of a completed, signed and dated Application for Services, the area Agency staff shall review the application and supporting documentation and within 45 days for children under the age of 6, and 60 days for individuals 6 years of age and older, shall notify the applicant of the final determination of eligibility for Agency services. If requests for collateral information
or additional evaluations are necessary to determine eligibility, the time may be extended for no more than an additional ninety (90) days.

(3) If an applicant is unable to produce an existing evaluation that establishes eligibility or if there is concern that the information provided is inaccurate, incorrect or incomplete, the Agency area office will be responsible for obtaining an evaluation to establish eligibility. Professional diagnoses under rule 65G-4.017 must document all criteria for eligibility as set forth in rules 65G-4.014-4.017, F.A.C. The evaluation process includes only those assessments necessary to determine eligibility that were administered by a person qualified to administer the instrument(s).

(4) When the eligibility determination is complete, the Agency Area Office shall notify the applicant, in writing, within five (5) business days of the decision. If the applicant is determined ineligible for Agency services, the Agency Area Office shall notify the applicant of the right to appeal the decision in accordance with Chapter 120, F.S.

(5) If the applicant is determined to be ineligible to receive services from the Agency, the Agency Area Office shall offer suggestions regarding other programs, agencies or services for which the applicant may be eligible.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History—New______

65G-4.017 Establishing Eligibility.

(1) Establishing Eligibility – Autism. A diagnosis of autism, as defined by rule 65G-4.014, may only be made by one or more of the following who has specific training and experience in making such diagnoses:

(a) A Florida-licensed psychiatrist,
(b) A Florida-licensed psychologist,
(c) A board certified pediatric neurologist who is qualified by training and experience to make a diagnosis of autism,
(d) A board certified developmental pediatrician,
(e) Collateral information received from another state may be accepted if the evaluator is licensed through the same credentials required for licensure in Florida for the professions listed in paragraph (1)(a) above.

(2) Establishing Eligibility – Cerebral Palsy. Diagnosis is confirmed by written documentation from one or more of the following:

(a) A medical doctor;
(b) A doctor of osteopathy; or
(c) Medical records documenting a diagnosis of cerebral palsy before the age of 18.
(3) Establishing Eligibility – Mental Retardation to establish that an individual has mental retardation the following criteria shall be applied:

(a) When there are several assessments that have been conducted with varying I.Q.s, the Agency shall rely on patterns or clusters of scores and shall reject those scores that appear to be significantly lower or higher than the average of the other scores. A single subtest should not be used alone to determine eligibility. If a person has significantly different (statistically defined) scores on different scales of a test or tests, or a great deal of variability on subtest scores of an IQ test, the full-scale score may not indicate mental retardation and should not be relied on as a valid score. In that instance, closer scrutiny is required to make an appropriate differential diagnosis. This may include review of school records, school placement, achievement scores, medical records, medication history, behavior during testing and the psychosocial situation at the time of testing. Closer scrutiny must also be required when there is a great deal of variability between IQ scores on different IQ tests or different administrations of the same IQ test. Nothing here is intended to preclude clinical judgment from appropriately determining that a single full scale IQ of 70 or below is sufficient to establish eligibility.

(b) The performance measures for this category of adaptive functioning deficits must be validated by the professional judgment of a psychologist who is experienced in working with people who have retardation, who has specific training and validation in the assessment instrument that is used, and who is either:

1. A Florida-licensed psychologist,
2. A Florida-licensed school psychologist,
3. A certified school psychologist.

(c) Any standardized test may be submitted as proof, however the applicant must demonstrate that any test not presumptively accepted by the Agency is valid. The following are presumptively accepted standardized tests of intelligence to establish eligibility for mental retardation are:

1. Stanford-Binet Intelligence Test (all ages),
2. Wechsler Preschool and Primary Scale of Intelligence (under six years of age),
3. Differential Ability Scales – Preschool Edition (under six years of age),
4. Wechsler Intelligence Scale for Children (WISC) (children up to fifteen years, eleven months),
5. Differential Ability Scales (children up to fifteen years, eleven months),
6. Wechsler Adult Intelligence Scale (WAIS),
7. Test of Nonverbal Intelligence-3 (TONI-3),
8. Comprehensive Test of Nonverbal Intelligence-2 (C-TONI 2),
9. Universal Nonverbal Intelligence Test (UNIT),
10. Leiter International Performance Scale-Revised (Leiter-R).
(d) The following are Tests of Adaptive Functioning are presumptively accepted in the determination:
   1. Vineland Adaptive Behavior Scales,
   2. AAMR Adaptive Behavior Scale,
   3. Adaptive Behavior Assessment System (ABAS),
5. In all cases, assessments or evaluations for eligibility should be obtained from appropriately licensed professionals with experience and training with the instruments and population for whom eligibility is to be determined.
(e) Establishing Eligibility – Prader-Willi Syndrome. Diagnosis is confirmed by written documentation from one or more of the following:
   1. A medical doctor;
   2. A doctor of osteopathy; or
   3. Medical records that document a diagnosis of Prader-Willi Syndrome before the age of 18.
4. Establishing Eligibility – Spina Bifida. Diagnosis is confirmed by written documentation from one or more of the following:
   a. A medical doctor;
   b. A doctor of osteopathy; or
   c. Medical records that document a diagnosis of spina bifida cystica or myelomeningocele before the age of 18.
5. Establishing Eligibility – High Risk Children, 3 to 5 years of age. Evidence under this category requires an area office determination that a medical diagnosis of developmental delay evidenced by the child indicates a high probability that the child is likely to have an eventual diagnosis of a qualifying condition under Rule 65G-4.014, F.A.C., if early intervention services are not provided, or the child has one or more physical or genetic anomalies associated with a developmental disability, such as:
   a. Genetic or chromosomal disorders (such as Down syndrome or Rett syndrome);
   b. Metabolic disorders (such as phenylketonuria);
   c. Congenital malformations (such as microcephaly or hydrocephaly);
   d. Neurological abnormalities and insults;
   e. Congenital and acquired infectious diseases;
   f. Chronic or catastrophic illnesses or injuries;
   g. A parent or guardian with developmental disabilities who requires assistance in meeting the child’s developmental needs; or
h. Other conditions or genetic disorders generally associated with developmental disabilities, such as tuberous sclerosis, congenital syphilis, fetal alcohol syndrome, or maternal rubella, as documented by a physician.

(4) If a child between three and five years of age already has been determined to have a developmental disability in one of the five categories identified in Chapter 393, F.S., that child shall be eligible for services from the Agency under the appropriate diagnosis and shall be added to the wait list.

(5) If a child served under the category of high risk does not have a confirmed diagnosis by his or her fifth birthday, they shall be given a notice of case closure, the child’s case will be closed at the Agency. The Agency shall make the child’s parent or guardian aware of appropriate agencies, programs or school programs which the Agency is aware of which might be able to assist the child.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New________.