


## 1.B.6 Eligibility Criteria

### I Policy Index:

 <p>UTAH DEPARTMENT OF <b>HEALTH</b> Baby Watch Early Intervention Birth to Three Development</p>	<b>Policy #:</b>	<b>1.B.6</b>
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	<b>Responsible Authority</b>	<b>BWEIP Manager</b>

### II Purpose:

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

### III 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.

#### **Child:**

A child is an infant or toddler under the age of three (3) with a disability that is referred to or receiving EI services.

#### **Early Intervention (EI) Program:**

Early Intervention program refers to the local program or provider contracted with the Baby Watch Early Intervention Program (BWEIP) to provide services for of infants and toddlers with disabilities and their families

#### **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.

#### **Individualized Family Service Plan (IFSP):**

An Individualized Family Service Plan (IFSP) is a working document agreed upon by EI service providers and family members to address the special needs of eligible children from birth to three (3).

## **Individuals with Disabilities Education Improvement Act (IDEIA):**

The Individuals with Disabilities Education Improvement Act is the federal law set forth by the United States that governs how states and public agencies provide early intervention special education and related services to children with disabilities.

## **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.

## **IV Principles and Procedures:**

### **A. Definition of Developmental Delay for Initial BWEIP 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.
2. 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 BWEIP.

### **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.
  - a. 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.
  - b. 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 II Specialist, and who have knowledge and expertise in the areas of stated concern identified by the parents or referral source.

3. In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.
4. A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) in the BWEIP, 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.
5. 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.
6. 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.
  - a. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, or
  - b. The language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.
  - c. 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 individual (such as sign language, braille, or oral communication).

### **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 EI services (See [Attachment 1](#)).
  - b. To establish eligibility based using a diagnosis not included on the list, EI providers shall:
    - 1). Contact the BWEIP 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.
2. 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.
  2. 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 BWEIP Eligibility**

1. **BWEIP 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.
2. A child continues to be eligible for EI services who has:
  - a. 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 (16<sup>th</sup>) 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, the EI program determines that a child is eligible or is not eligible for EI services, the EI program must 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 notice must be in sufficient detail to inform parents about the action that is being proposed or refused; summary of the evaluation results; the reasons for taking the action; and all procedural safeguards that are available, including a description of mediation, how to file a State complaint and a due process complaint, and any timelines under those procedures.
  - b. The notice must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
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.

**v Authority:**

- 34 CFR § 303.31: [Qualified personnel](#)
- 34 CFR § 303.113: [Evaluation, assessment, and nondiscriminatory procedures](#)
- 34 CFR § 303.321: [Evaluation of the child and assessment of the child and family](#)
- 34 CFR § 303.322: [Determination that a child is not eligible](#)
- 34 CFR § 303.404: [Notice to Parents](#)

**VI Related Directive(s):**

None

**VII Revision Log:**

January 2013: **New** policy.

June 2013: **Added** reference to evaluation process language "Timely Comprehensive Multidisciplinary Evaluation and Assessment Policy" Section C. **Added** language concerning native language, mode of communication, medical records and "early intervention services appropriate to meet those needs."

		<i>7-01-13</i>
Susan Ord, BWEIP Program Manager		Date

## Attachment 1: BWEIP Approved Diagnosis List

The **BWEIP Approved Diagnosis List** may be accessed on the BWEIP website at <http://www.utahbabywatch.org/docs/foreiproviders/btots/btots-medical-dx.pdf>

### **BWEIP Approved Diagnosis List** *last updated 7/27/12*

1. 18 Q Deletion Menkes Syndrome
2. 49 XXXXY Syndrome Methylmalonic acidemia
3. Albinism Microphthalmia
4. All unbalanced structural chromosome syndrome Moebius Sequence
5. Angelman Syndrome Muscular Dystrophy, Becker Type
6. Amyoplasia Congenita Muscular Dystrophy, Duchenne Type
7. Aniridia Myopathies
8. Anophthalmia Neurofibromatosis Type 1
9. Apert Syndrome NICU Grad., Difficulty pacing/coordinating suck-swallow-breathe
10. Arthrogryposis NICU Grad., Fluctuating tone
11. Autistic Spectrum Disorders NICU Grad., Inconsolability
12. Bardet-Biedl Syndrome NICU Grad., Long, difficult time to learn to eat
13. Cerebral Palsy NICU Grad., Neurologically based significant irritability
14. CHARGE Syndrome
15. NICU Grad., NG, NJ, or G tube feedings required either full or
16. partial to maintain adequate nutrition
17. Chromosome 9 Deletion NICU Grad., Severe sleep disorder
18. Cockayne Syndrome NICU Grad., Significant tremors when at rest
19. Congenital Bilateral Perisylvian NICU Grad., Unable to come to a quiet-alert state
20. Congenital Brain Malformation NICU Grad., Unable to take 100% nutrition by mouth
21. Congenital Infection, Cytomegalovirus NICU Grad., Unusually high tone
22. Congenital Infection, Herpes NICU Grad., Unusually low tone
23. Congenital Infection, HIV Niemann-Pick Disease
24. Congenital Infection, Rubella Optic Atrophy
25. Congenital Infection, Syphilis Optic Nerve Hypoplasia
26. Congenital Infection, Toxoplasmosis Pentasomy X
27. Cornelia de Lange Syndrome Persistent Hyperplastic Primary Vitreous (PHPV)
28. Cortical Visual Impairment Pervasive Developmental Delay
29. Cri-du-chat Phthisis Bulbi
30. Deafblind Pierre-Robin Sequence
31. Delayed Visual Development/Maturation/Impairment Prader-Willi Syndrome
32. Deletion 2p21 Reduction Deformity
33. DiGeorge Syndrome or Velo-Cardio-Facial Retinal Detachment
34. Down Syndrome (Trisomy 21) Retinopathy of Prematurity (ROP) Grades 4,5
35. Encephalocele Rubenstein-Taybi Syndrome
36. Failure to Thrive Sanfilippo Syndrome
37. Familial Exudative Vitreoretinopathy (FEVR) Semilobar holoprosencephaly
38. Fetal Alcohol Syndrome Septo Optic Dysplasia
39. Fetal Hydantoin Syndrome Sly Syndrome
40. Fetal Valproate Syndrome Spina Bifida
41. FG Syndrome Spinal Cord Injury with Cord Involvement
42. Fragile X Syndrome Spinal Muscular Atrophy (SMA)
43. Hearing Loss Sturge-Weber
44. Hunter Syndrome Tay-Sachs Disease
45. Hurler-Scheie Syndrome Treacher Collins
46. Hypoxic Ischemic Encephalopathy with seizures Trisomy 13
47. Infantile Gaucher Disease Trisomy 18
48. Jacobsen Syndrome Tuberous Sclerosis
49. Kleefstra Syndrome Untreated Hypothyroidism
50. Klinefelter Syndrome Untreated PKU
51. Kugelburg-Wehlander Syndrome Velo-cardio-facial or DiGeorge Syndrome
52. Leber's Congenital Amaurosis Ventilator Dependent
53. Lesch-Nyhan Syndrome Walker-Warburg Syndrome
54. Lowe Syndrome Waardenburg Syndrome, Types I and II
55. Maple Syrup Urine Disease Werdnig-Hoffman Syndrome
56. Marshall-Smith Syndrome Williams Syndrome
57. Wolf-Hirschhorn Syndrome