

SENATE BILL REPORT

2SHB 2008

As of February 17, 2022

Title: An act relating to eliminating the use of intelligence quotient scores in determining eligibility for programs and services for individuals with developmental disabilities.

Brief Description: Eliminating the use of intelligence quotient scores in determining eligibility for programs and services for individuals with developmental disabilities.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Taylor, Fitzgibbon, Peterson, Ramel, Santos, Sells, Shewmake, Valdez, Ryu, Macri, Berg, Bateman, Ormsby, Frame, Davis, Lekanoff and Pollet).

Brief History: Passed House: 2/11/22, 68-28.

Committee Activity: Human Services, Reentry & Rehabilitation: 2/17/22.

Brief Summary of Bill

- Prohibits the Developmental Disabilities Administration (DDA) from using intelligence quotient (IQ) scores in eligibility determinations.
- Allows DDA to use IQ scores for presumptive eligibility determinations.
- Directs DDA to prioritize individuals on the no-paid services caseload when funding and capacity to serve new individuals on the Medicaid waivers becomes available.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: LeighBeth Merrick (786-7445)

Background: The Developmental Disabilities Administration (DDA) is a division of the Department of Social and Health Services (DSHS) that assists persons with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. People served by the DDA live in the community and in residential

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habilitation centers. Eligibility for DDA services depends on whether a person has a qualified developmental disability, has a functional need, and meets certain income and asset standards. The services provided are designed to promote everyday activities, routines, and relationships common to most people, and include housing, medical care, personal care, and job training.

An individual with an intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition similar to an intellectual disability or require treatment similar to that required for individuals with intellectual disabilities may qualify for DDA services. The disability must have originated before the person turned 18; be expected to continue indefinitely; and result in substantial limitations. To qualify for DDA services, an individual with an intellectual disability or similar condition must have a diagnosis by a licensed physician or psychologist and an intelligence quotient (IQ) score and adaptive functioning assessment below a certain threshold. DDA may not use IQ scores as the sole determinant of developmental disability.

There are two avenues for which functionally and financially eligible individuals may obtain Medicaid paid services in community settings through DDA—the Community First Choice Option (CFCO) of the Medicaid State Plan, and Home and Community Based Services (HCBS) waivers. The CFCO is an uncapped entitlement and provides personal care to those who qualify for institutional care, but would rather be served in their homes or communities. The five HCBS waivers allow DDA clients who live in community settings to receive optional services at the same level the individual would receive in an institutional setting. Unlike the CFCO, each waiver has a capacity limit on the number of people who can be served.

Individuals who qualify for DDA services but are not receiving them are known as being on the no-paid services caseload. As of February 1, 2022, a total of 12,121 individuals were on the no-paid services caseload.

Summary of Bill: Beginning July 1, 2025, DDA must no longer use IQ scores in determining eligibility for any developmental disability—related programs or services. DDA must maintain eligibility for individuals who were previously determined eligible based in whole or in part on IQ score and may not require them to meet any new eligibility requirements in response to the discontinuation of the use of IQ scores. An IQ score may be used to establish a presumption of eligibility. DDA may continue using a diagnosis from qualifying diagnosticians and adaptive functioning assessments to determine eligibility and substantial limitation.

Beginning July 1, 2025, when capacity and funding is available to enroll additional individuals in DDA's Medicaid waivers, DDA must prioritize individuals who are on the no-paid services caseload as of June 30, 2025.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 9, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Functional eligibility for DDA services requires a medical diagnosis, an adaptive functioning assessment, and IQ score. Over the years, DDA has relied heavily on ruling out individuals because their IQ scores are too high, even though they have a medical diagnosis and adaptive functioning needs. IQ scores are a barrier to accessing DDA services and are unnecessary since clinical diagnosis and a functional assessment are already required. Accessing IQ tests require resources and put people who aren't able to access the tests at a real disadvantage. Other services for people with disabilities do not use IQ scores to determine eligibility. Eliminating IQ scores allows people to get the services that they need. Many people with Autism and Fetal Alcohol Spectrum Disorder are able to read and do math so they score okay on the IQ test, but they struggle with making every day decisions and completing daily living tasks. When individuals don't get the services they need they may end up homeless or involved in the criminal justice system. This hurts the individual and ends up costing the state more money. People thrive when they have access to the right services. IQ scores are not person-centered and are not a true measure of a person's needs. Using IQ scores is outdated and based on racist and eugenic ideals.

Persons Testifying: PRO: Representative Jamila Taylor, Prime Sponsor; Emily Fung, Open Doors for Multicultural Families; Adana Protonentis, Parent advocate; Ivanova Smith, Self advocate; Adrienne Stuart, Washington State Developmental Disabilities Council; Darya Farivar, Disability Rights Washington; Krista Milhofer, People First of Washington; Luke Tolley, The Arc of Spokane.

Persons Signed In To Testify But Not Testifying: No one.