

***Effective 5/3/2023***

***Effective until 5/1/2024***

**26B-6-401 Definitions.**

As used in this part:

- (1) "Approved provider" means a person approved by the division to provide home-based services.
- (2) "Board" means the Utah State Developmental Center Board created under Section 26B-1-429.
- (3)
  - (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.
  - (b) "Brain injury" does not include a deteriorating disease.
- (4) "Designated intellectual disability professional" means:
  - (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:
    - (i)
      - (A) has at least one year of specialized training in working with persons with an intellectual disability; or
      - (B) has at least one year of clinical experience with persons with an intellectual disability; and
    - (ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or
  - (b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:
    - (i) has at least two years of clinical experience with persons with an intellectual disability; and
    - (ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.
- (5) "Deteriorating disease" includes:
  - (a) multiple sclerosis;
  - (b) muscular dystrophy;
  - (c) Huntington's chorea;
  - (d) Alzheimer's disease;
  - (e) ataxia; or
  - (f) cancer.
- (6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part 5, Utah State Developmental Center.
- (7) "Director" means the director of the Division of Services for People with Disabilities.
- (8) "Direct service worker" means a person who provides services to a person with a disability:
  - (a) when the services are rendered in:
    - (i) the physical presence of the person with a disability; or
    - (ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and
  - (b)
    - (i) under a contract with the division;
    - (ii) under a grant agreement with the division; or
    - (iii) as an employee of the division.
- (9)
  - (a) "Disability" means a severe, chronic disability that:
    - (i) is attributable to:
      - (A) an intellectual disability;
      - (B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. Sec. 435.1010;

- (C) a physical disability; or
- (D) a brain injury;
- (ii) is likely to continue indefinitely;
- (iii)
  - (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:
    - (I) self-care;
    - (II) receptive and expressive language;
    - (III) learning;
    - (IV) mobility;
    - (V) self-direction;
    - (VI) capacity for independent living; or
    - (VII) economic self-sufficiency; or
  - (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:
    - (I) memory or cognition;
    - (II) activities of daily life;
    - (III) judgment and self-protection;
    - (IV) control of emotions;
    - (V) communication;
    - (VI) physical health; or
    - (VII) employment; and
- (iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:
  - (A) may continue throughout life; and
  - (B) must be individually planned and coordinated.
- (b) "Disability" does not include a condition due solely to:
  - (i) mental illness;
  - (ii) personality disorder;
  - (iii) deafness or being hard of hearing;
  - (iv) visual impairment;
  - (v) learning disability;
  - (vi) behavior disorder;
  - (vii) substance abuse; or
  - (viii) the aging process.
- (10) "Division" means the Division of Services for People with Disabilities.
- (11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division, to receive services that are administered by the division.
- (12) "Endorsed program" means a facility or program that:
  - (a) is operated:
    - (i) by the division; or
    - (ii) under contract with the division; or
  - (b) provides services to a person committed to the division under Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.
- (13) "Licensed physician" means:
  - (a) an individual licensed to practice medicine under:
    - (i) Title 58, Chapter 67, Utah Medical Practice Act; or
    - (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

- (b) a medical officer of the United States Government while in this state in the performance of official duties.
- (14) "Limited support services" means services that are administered by the division to individuals with a disability:
  - (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and
  - (b) through a program that:
    - (i) was not operated by the division on or before January 1, 2020; and
    - (ii)
      - (A) limits the kinds of services that an individual may receive; or
      - (B) sets a maximum total dollar amount for program services provided to each individual.
- (15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.
- (16) "Public funds" means state or federal funds that are disbursed by the division.
- (17) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.
- (18) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section 26B-1-331.