§ 67.09 Medicaid home and community based services eligibility for dependents of certain military service members.

(a) A dependent of a member of the armed forces of the United States or the organized militia of the state, who is a legal resident of this state, having previously been determined to be eligible for developmental disability services provided by the office for people with developmental disabilities (OPWDD), including waiver services provided under the home and community based services programs authorized under Section 1915(c) of the Social Security Act, shall retain eligibility for those developmental disability services as long as he or she remains a legal resident of the state, regardless of having left the state due to the service member's military assignment outside the state, and as long as he or she is otherwise eligible for such services.

(b) For dependents who received developmental disability services and who left the state due to the military service member's military assignment outside the state, upon the dependent's return to the state and when a request for services is made OPWDD shall:

(1) determine the dependent's eligibility for services, which may include a request for waiver services provided under the home and community based services programs authorized under Section 1915(c) of the Social Security Act;

(2) provide to the dependent notification of the determination of eligibility for services, which includes notification of a denial of services if applicable;

(3) provide the dependent an opportunity to contest OPWDD's determination through the appeals process established by OPWDD; and

(4) resume services if the individual remains eligible.

(c) As a condition of continued eligibility for services under subdivision (a) of this section, a depended must inform OPWDD of their current address and provide updates as requested by OPWDD.

(d) No payment pursuant to this section shall be made for home and community based services provided outside the State of New York.

(e) For purposes of this section, "dependent" shall be defined consistent with the federal tax code.