

	Mental Health and Substance Abuse Bulletin COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE		
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SUBJECT Nursing Home Reform Implementation	BY  Charles G. Curie Deputy Secretary for Mental Health and Substance Abuse Services		

SCOPE:

County MH Program Administrators Base Service Unit Directors Area Agency on Aging Directors Nursing Facility Administrators Community Psychiatric Inpatient Units State Mental Hospitals

PURPOSE:

To assure that all individuals with mental illness who reside in, or apply for admission to, Medicaid certified nursing facilities are in need of the services provided by the facility and receive services appropriate to their needs. This bulletin clarifies procedures and responsibilities related to the provision of services in accordance with Federal requirements under the Omnibus Budget Reconciliation Act of 1987 and 1990 (42U.S.C.1396r). This bulletin obsoletes Mental Health Bulletin OMH-93-12 of January 28, 1994.

BACKGROUND:

The Omnibus Budget Reconciliation Act of 1987 (OBRA '87) and the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), (42 U.S.C. §1396r), require pre-admission screening and resident review (PASRR) to determine the need for admission to, or continued stay in a Medicaid certified nursing facility. This requirement applies to persons with mental illness (MI), mental retardation (MR), or other related condition (ORC). Federal regulations provide criteria to determine the need for nursing facility services and specialized services.

OBRA '87 and '90 require states to provide an appeal process for persons who are transferred or discharged from Medicare skilled nursing facilities (SNFs) or Medicaid nursing facilities (NFs) or who wish to dispute a PASRR determination. The purpose of these requirements is to avoid the unnecessary placement of individuals with MI/MR/ORC in NFs.

The requirements for implementation of the state PASRR program include: a pre-admission screening of any individual with mental illness, mental retardation, or other related condition who applies for admission to a Medicaid NF on or after January 1, 1989. The requirement for an annual resident review under OBRA '87 was repealed in October, 1996, requiring, instead, a review whenever a patient has a change of condition.

Federal regulations place ultimate control and responsibility for making determinations regarding placement of persons with mental illness on the State Office of Mental Health and Substance Abuse Services (OMHSAS). These determinations must be based on independent assessment physical and psychiatric evaluations performed by persons or entities other than the OMHSAS. The Office of Medical Assistance Programs (OMAP) designated OPTIONS/Area Agencies on Aging (AAA) as the independent assessment agency responsible for evaluating functions for the pre-admission screening process for individuals seeking admission to a NF. The OMAP Utilization Management Review Team (UMRT) is responsible for evaluating residents once they are in the NF via a 408 review process as stipulated in MA Bulletin 34-94-03, 35-93-07, 36-93-07 and MA Bulletin 34-99-01, 35-99-02, 36-99-02.

This bulletin is organized into three parts as follows:

- Part I, Definitions (page 2);
- Part II, Responsibility for Services (page 4); and

- Part III, Procedures-
 - A. Applications (page 5)
 - B. Screening Procedures (page 7)
 - C. Appropriate Placement Options (page 8)
 - D. Notifications (page 10)

PART I. DEFINITIONS

- A. DEMENTIA - An individual is considered to have dementia if he/she has a primary diagnosis of dementia as described in the current Diagnostic and Statistical Manual of Mental Disorders along with other criteria listed below. The criteria used to diagnose dementia are:
 - 1. Demonstrable evidence of impairment in short and long term memory; and
 - 2. At least one of the following:
 - a. Impairment in abstract thinking,
 - b. Impaired judgment,
 - c. Other disturbance of higher cortical functions, or
 - d. Personality change;
 - 3. The disturbance in 2. (a) and (b) significantly interferes with work or usual social activities or relationships with others;
 - 4. The disturbance does not occur exclusively during the course of delirium; and
 - 5. Either:
 - a. There is evidence, from the individual's history or examinations, of a general medical condition judged to be etiologically related to the disturbance; or
 - b. In the absence of such evidence, a general medical condition can be presumed if the disturbance cannot be accounted for by a primary mental disorder.
- B. MENTAL HEALTH REHABILITATIVE SERVICES - Mental health rehabilitative services shall be defined as those community-based mental health services needed by individuals with mental illness, including psychiatric physician services and other mental health services currently available through the county administered community mental health program.
- C. MENTAL ILLNESS - An individual is considered to have a mental illness if all the following criteria are met:
 - 1. Has a current primary, secondary or tertiary diagnosis of a major mental disorder (as defined under the current Diagnostic and Statistical Manual of Mental Disorders), and does NOT have a primary diagnosis of dementia. The primary or secondary diagnosis must fall within the definitions of schizophrenic disorder, paranoid disorder, or other psychotic disorder, mood disorder (major affective disorder), panic or other severe anxiety disorder, somatoform disorder, personality disorder; and
 - 2. Has a functional limitation attributable to the diagnosed mental illness, on a continuous or intermittent basis within the past 3 to 6 months in at least one of the following areas:
 - a. Interpersonal functioning (unable to interact effectively with others); concentration, persistence and

pace (unable to focus attention, complete tasks, etc.);
and

b. Adaptation to change (has serious difficulty adapting to typical changes);
and

3. Has a recent history of psychiatric treatment more intensive than outpatient care, or, more than once in the past 2 years experienced an episode of significant disruption to the normal living situation, as a result of the diagnosed mental illness, for which supportive services were required to maintain functioning at home, or in a residential treatment environment, or which resulted in intervention by housing or law enforcement officials.

D. NURSING FACILITY SERVICES - A nursing facility must provide or arrange to provide:

1. Nursing and related services and mental health rehabilitative services to attain and/or maintain the highest practicable physical, mental and psychosocial well-being;
2. Medically-related services to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident;
3. Pharmaceutical services;
4. Dietary services that assure meals that meet the daily nutritional and special dietary needs of each resident;
5. An ongoing program of activities, directed by a qualified professional, designed to meet the interests and the physical, mental and psychosocial well-being of each resident.
6. Routine dental services;
and
7. Other services required to meet certification and licensure standards.

E. SPECIALIZED SERVICES - Specialized services for residents with mental illness shall be defined as inpatient psychiatric hospitalization.

PART II. RESPONSIBILITY FOR SERVICES

A. NURSING FACILITY - The NF must provide, or arrange for provision of, mental health services, for any resident with MI who needs such services. Such nursing facility services are of a lesser intensity than inpatient psychiatric hospital services. Less intensive mental health services include:

1. *preparation of systematic plans which are designed to facilitate appropriate behavior;*
2. *drug therapy and monitoring for effectiveness and side effects;*
3. *structured social activities to reduce tendencies of withdrawal and isolation;*
4. *teaching daily living skills to enhance self-determination and independence;*
5. *individual/group/family therapy; and,*
6. *personal support networks and formal behavior modification programs.*
Such MH services must be provided by qualified personnel.

B. COUNTY MH/MR OFFICES - The county MH/MR office shall assist nursing facilities in accessing mental health services for all NF residents with a secondary diagnosis of MI who need treatment as identified by the PASRR process. Such treatment or training must be provided by qualified mental health professionals. Residents who reside in the NF will receive mental health rehabilitative services either in the nursing facility or in the resident's county of origin. Persons who choose not to reside in the community will receive mental health rehabilitative services through the county MH/MR program. County MH/MR offices should identify needed resources for the implementation of OBRA activities in the needs based planning process.

The responsible county MH/MR program office will assign a case manager who will develop a community based plan of MH services for any person with MI who does not need NF care or who does not choose to stay in a nursing facility. The OMHSAS field office will notify the county MH/MR program office of all persons with MI who do not need NF care or choose not to stay in nursing facilities (see notifications, Page 10). The case manager must develop and implement the MH service plan within one month of notification by the OMHSAS field office to the county MH/MR program office. The county MH/MR office will send a copy of the plan to the NF to be kept in the resident's file.

The case manager will provide CM services at the level of intensity determined by the individual's needs. The MH community based service plan must contain a discharge plan and a list of all necessary MH services in the community. Upon discharge from the NF, each individual will be permitted to choose a placement in his or her home community or

may choose another community. If placement is not immediately available, the county MH program is required to make a reasonable effort to develop one. If MH services are no longer needed, the county MH program office must assure that an appropriate referral is made to other community services, if such services are needed.

PART III. PROCEDURE

A. APPLICATIONS

The PASRR applies to all individuals with MI who apply to or reside in Medicaid certified NFs, regardless of the source of payment for NF services, and regardless of the individual's diagnoses. Individuals with a MH diagnosis residing outside of Pennsylvania who apply for admission to a NF in Pennsylvania must have a PAS (pre-admission screening). Pennsylvania OMAP will accept another state's most recent PASRR. If a PASRR has not been completed, the screening procedure described in (III. B.1. and 2) must be implemented.

The PASRR screening is applied as follows:

1. An individual with MI who applies for admission to a NF for the first time is subject to a pre-admission screening (PAS). Any individual identified by the pre-admission screening as having a mental illness is evaluated for the needed level of care. Persons who are not required to undergo the pre-admission screening are persons who do not have a mental illness or who are diagnosed with dementia, or persons who qualify for exempted hospital discharge which is described below;
2. A resident of a nursing facility who is re-admitted to a NF from a hospital stay is subject to a resident review under the 408 process if it is found that his or her mental condition deteriorated. The NF must readmit the individual after completing acute psychiatric inpatient treatment at the community hospital. It is not acceptable to discharge the patient from the NF unless another placement is found;
3. An individual who is transferred from one NF to another is not considered a new admission. The most recent PASRR and resident assessment report must accompany the transferring resident to the new NF;
4. An individual who is admitted to a nursing facility from acute inpatient hospital care, is exempt from the screening process, if the individual: 1) requires NF services for the condition which was treated in the hospital; and, 2) the attending physician provides prior certification that less than 30 days of NF care is required. The individual is exempt from the screening process, but must have a pre-admission identification (I.D) on record. If the individual is subsequently determined to require more than 30 days of NF care a resident review must be performed through the 408 process within 40 calendar days from admission to the NF;
5. An applicant/resident may be admitted for respite care for a period up to 14 days without further evaluation if he/she is certified by a referring or attending physician to require 24 hour NF services and supervision;
6. An applicant/resident may be admitted for emergency placement up to 30 days without further evaluation if the OPTIONS/AAA protective services certifies that the placement is needed;
7. An applicant/resident may receive NF services without further evaluation, if certified by the referring or attending physician to be in a coma or functions at brain stem level.

B. SCREENING PROCEDURES

1. Level 1 - To identify individuals with mental illness. The purpose of the ID screen is to determine which NF applicant or resident has a mental illness and is subject to PASRR. This determination is based on the mental health target criteria contained in OBRA '87. Dementia is not included in the definitions of applicable diagnoses (see Definitions). Identification of individuals with MI includes the following steps:
 - a. A physician completes the MA '51 (Medical Evaluation and Application for MA in a NF) upon referral to a Medicaid certified NF; and/or
 - b. Attending caregiver/family completes a pre-admission screening form (PASRR-ID). A physician must sign for an exception (i.e., admission from an acute care facility for less than 30 days of NF care, respite care, emergency placement, functions at a coma/brain stem level);
 - c. The PASRR-ID is submitted to OPTIONS/AAA for review. OPTIONS/AAA contacts the person with possible MI, or their legal representative, as part of the Level I screening.
2. Level II - This screen is to determine:

- a. if a NF level of care is required;
and,
- b. if a NF level of care is required along with mental health rehabilitative services.

1. Pre-admission Screening (PAS)

- a. OPTIONS/AAA assesses the need for NF level of care or services. The assessment is based on medical status, mental status and functional ability. OPTIONS/AAA is responsible for explaining the purpose of the assessment to the individual. OPTIONS/AAA completes a PASRR evaluation (EV) and other assessments and refers the information to the OMHSAS field office.
 - b. OMHSAS field office reviews the information and makes the determination within 7 to 9 working days of the receipt of a complete package of information from OPTIONS.
 - c. The OMHSAS field office sends letters of determination (see notifications).
2. If an individual is not identified as having MI or is determined not to have MI as a result of the pre-admission screening and is later found to have MI, that individual should be referred to the OMAP Division of Long Term Care provider services using the MA 408 Form. A UMRT will be assigned to perform the necessary PASRR evaluation. Information is then sent to the OMHSAS field office for review and final determination.

C. APPROPRIATE PLACEMENT OPTIONS

- 1. Placement of an individual with MI in a NF may be considered appropriate only if his or her medical needs are such that they meet the minimum standard for admission and the mental health treatment requirements do not exceed the level of care that a NF is capable of delivering. Mental health rehabilitative services may be delivered either through NF services alone, or, where necessary through NF services supplemented by MH services available through the county MH/MR program.
- 2. If a determination is made to admit or allow any individual who requires mental health rehabilitative services, to remain in the NF, the determination must be supported by assurances that needed mental health rehabilitative services can and will be provided.
- 3. Placement options and the required OMHSAS and county MH/MR program office actions are as follows:
 - a. Can be admitted to a NF - Any applicant for admission to a NF who has a secondary diagnosis of MI and requires the level of services provided by a NF, regardless of whether mental health rehabilitative services are also needed, may be admitted to a NF, if the placement is appropriate;
 - b. Cannot be admitted to a NF - Any applicant for admission to a NF who has MI and who does not require the level of medical services provided by a NF, regardless of whether mental health rehabilitative services are also needed, is inappropriate for NF placement and must not be admitted;
 - c. Is appropriate for continued stay in a NF - Any NF resident with MI, requiring a NF level of services, regardless of length of stay or need for mental health rehabilitative services, may continue to reside in the NF, if the placement is appropriate according to the results of the resident review;
 - d. May choose to remain in the NF even though the placement would otherwise be inappropriate: Any NF resident with MI who does not require the level of services provided by a NF but does require specialized services and who has continuously resided in a NF for at least 30 consecutive months before the date of the determination may choose to continue to reside in the facility or to receive covered services in an alternative appropriate institutional or community setting. Wherever the individual chooses to reside, the county MH program must meet his/her specialized services needs. Within 30 days of the determination, the resident will be notified by staff of the facility and the county MH program of his/her options to remain in the facility and obtain specialized services or to be assisted in finding appropriate alternate placement in the community. The resident will be asked to sign a form indicating his/her choice. The county MH program responsible for providing specialized services is generally the county where the nursing facility is located, but may be the individual's county of origin, or county of choice, dependent upon agreements negotiated by county MH programs involved.
 - e. Cannot be considered appropriate for continued placement in a NF and must be discharged. Any NF resident with MI who does not require the level of medical services provided by a NF but, does require specialized services and who has resided in a NF before the date of the determination must be discharged to an appropriate setting where the county MH/MR program office must make mental

health rehabilitative services available. The resident will be notified that within 30 days of the determination, staff from the facility and the county MH/MR office will be contacting him/her to assist in developing plans for alternate placement. The county MH/MR office responsible for mental health services for the individual may be one of the following: 1) the county MH/MR program office where the NF is located; 2) the individual's county of origin; or, 3) the county where the individual chooses to reside. The NF should contact the nearest county MH/MR program office and ask for clarification as to which county MH/MR program office is responsible for administering services. The appropriate OMHSAS field office should be contacted if there are delays in deciding which is the responsible county MH/MR program office. The resident will be advised of discharge arrangements and of his/her appeal rights under both PASRR and discharge provisions;

- f. Cannot be considered appropriate for continued placement in a NF and must be discharged. Any resident with MI who has a change of condition and no longer requires the level of services provided by a NF and does not require specialized services regardless of his/her length of stay must be discharged. The resident will be notified that within 30 days of the determination, staff from the facility and the county MH/MR program office will be contacting him/her and will assist in developing plans for alternate placement in the community. In addition, the AAA will assess the resident for other appropriate community services, such as domiciliary care, senior center, SSI supplement or for personal care home. AAA and/or the county MH/MR program office is not the discharge planner. Discharge planning is the responsibility of the NF. The resident will be advised of discharge arrangements and of his/her appeal rights under both PASRR and discharge provisions.

D. NOTIFICATIONS

1. The OMHSAS, OMAP, or county assistance office (CAO) must notify each NF resident or NF applicant of any action that results in a change of service, eligibility, or coverage. The notification must include the effective date of the action to be taken and, it must describe the action intended to be taken. Such action may be termination, suspension, reduction of Medicaid eligibility for covered services, transfer or discharge from a NF, or notification of any adverse determination made by the OMHSAS field office regarding the pre-admission screening or resident review process.

The notification must be:

- a. In writing and must be able to be understood by the individual and/or legal representative, if applicable;
 - b. Interpreted and explained to the individual and/or legal representative, if applicable;
 - c. Issued at least 30 days prior to a change in service as a result of the determination;
 - d. Distributed to the following agencies/individuals as appropriate
 - i. Individual and legal representative, if any,
 - ii. Nursing facility,
 - iii. CAO,
 - iv. OMAP, UMR Team
 - v. Options/AAA site,
 - vi. County MH/MR office.
 - vii. Referring agent/facility
2. An individual may appeal an adverse determination with regard to pre-admission and resident review requirements. An adverse determination of the pre-admission and resident review process only includes the following:
 - a. Classification of an individual who may not be admitted to or remain in a nursing facility (Determination Appeal); The determination that an individual requires nursing facility services is not an adverse determination which can be appealed.
 3. Regulations relating to appeals of adverse determinations in the pre-admission screening and resident review process are covered under 55 Pa. Code, Chapter 275.

Information concerning the filing of appeals can be obtained by calling the Bureau of Hearing and Appeals at the following telephone number: Harrisburg (717) 783-3950

Additional information regarding the implementation of review processes as regulated by OBRA '87 and '90 may be obtained by contacting the appropriate OBRA coordinator in your area, at one of the following addresses.

<p>Northeast OMHSAS Field Office Scranton State Office Building 100 Lackawanna Avenue Scranton, PA 18503 (570) 963-4375</p> <p>Berks Bradford/Sullivan Carbon/Monroe/Pike Lackawanna/Susquehanna/Wayne Lehigh Luzerne/Wyoming Northampton Schuylkill Tioga</p> <p>Harrisburg OMHSAS Field Office Shamrock Hall, 2nd Floor P. O. Box 2675 Harrisburg, PA 17105 (717) 772-6650</p> <p>Bedford/Somerset Blair Cambria Centre Columbia/Montour/Snyder/Union Cumberland/Perry Dauphin Franklin/Fulton Huntingdon/Mifflin/Juniata Lancaster Lebanon Lycoming/Clinton Northumberland York/Adams</p>	<p>Southeast OMHSAS Field Office Norristown State Hospital Building #57 Stanbridge & Sterigere Streets Norristown, PA 19401 (610) 313-5844</p> <p>Bucks Chester Delaware Montgomery Philadelphia</p> <p>Western OMHSAS Field Office Pittsburgh State Office Bldg., Rm. 413 300 Liberty Avenue Pittsburgh, PA 15222 (412) 565-5226</p> <p>Allegheny Armstrong/Indiana Beaver Butler Cameron/Elk/McKean Clarion Clearfield/Jefferson Crawford Erie Fayette Forest/Warren Greene Lawrence Mercer Potter Venango Washington Westmoreland</p>
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COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

OMHSAS Bureau of Operations and Quality Management (717) 772-7587

Visit the Office of Mental Health and Substance Abuse website at www.dpw.state.pa.us/omhsas/dpwmh.asp