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# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF PUBLIC WELFARE

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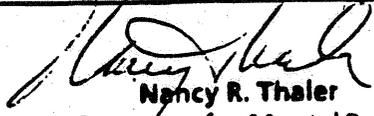
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SUBJECT

OBRA PROCEDURES FOR INDIVIDUALS  
WITH MENTAL RETARDATION

BY

  
Nancy R. Thaler  
Deputy Secretary for Mental Retardation

## SCOPE:

Area Agency on Aging Directors  
County Mental Health and Mental Retardation Administrators  
Base Service Unit Directors  
Intermediate Care Facility for the Mentally Retarded (ICF/MR)  
Directors  
County Mental Retardation Fiscal Directors  
County Mental Retardation Coordinators  
Nursing Facility Administrators

## PURPOSE:

The purpose of this bulletin is to clarify County Mental Health/Mental Retardation (MH/MR) Program and Department responsibilities related to individuals with mental retardation who are applicants or residents of nursing facilities, in accordance with Federal requirements under the Omnibus Budget Reconciliation Act (OBRA) of 1987.

## BACKGROUND:

Federal regulations issued on November 30, 1992 (42 CFR Parts 405, 431, 433 and 483) set forth State requirements for Preadmission Screening and Annual Resident Review (PASARR) of individuals with mental retardation who are applicants or residents of nursing facilities certified for Medicaid funding. The regulations include criteria for determination of need for nursing facility services and specialized services together with procedures for ensuring individual freedom of choice and appeal rights.

Federal regulations place ultimate control and responsibility with the Pennsylvania Office of Mental Retardation to evaluate and determine the need for services for individuals with mental retardation. This responsibility is delegated to the Regional Program Manager of the Office of Mental Retardation. This bulletin explains how the Office of Mental Retardation will carry out these responsibilities, along with the roles of the County MH/MR Programs and other Department of Public Welfare Offices, or their agents.

REFER COMMENTS AND QUESTIONS TO:

Appropriate Regional Mental Retardation Program Manager

The bulletin is organized into five parts and five attachments which are as follows:

- Part I: Identifying Persons With Mental Retardation (page 3)
- Part II: Determination on Need for Nursing Facility Services (page 6)
- Part III: Determination on Need for Specialized Services (page 8)
- Part IV: Evaluation Report and Determination Notices (page 11)
- Part V: Responsibilities of County MH/MR Programs (page 14)

- Attachment A: PASARR Appeal Procedures
- Attachment B: Freedom of Choice Procedures
- Attachment C: Definition of Terms
- Attachment D: Criteria for Nursing Facility Services

PART I. IDENTIFYING PERSONS WITH MENTAL RETARDATION

A. Criteria

For purposes of OBRA, an individual is considered to have mental retardation only when all of the following three requirements are satisfied:

1. A licensed psychologist, certified school psychologist, or psychiatrist certifies that the person has significantly subaverage intellectual functioning which is documented by either:

a) performance which is more than two standard deviations below the mean of a standardized general intelligence test, or

b) performance which is slightly above two standard deviations below the mean of a standardized general intelligence test during a period when the person manifests serious impairments of adaptive behavior.

2. A qualified mental retardation professional certifies that the person has impairments in adaptive behavior based on the results of a standardized assessment of adaptive functioning which show that the person has either:

a) significant limitations in meeting the standards of maturation, learning, personal independence, and/or social responsibility of his or her age and cultural group, or

b) substantial functional limitation in three or more of the following areas of major life activity:

- |                                      |                                    |
|--------------------------------------|------------------------------------|
| 1. self-care                         | 5. self-direction                  |
| 2. receptive and expressive language | 6. capacity for independent living |
| 3. learning                          | 7. economic self-sufficiency       |
| 4. mobility                          |                                    |

3. There is documentation to substantiate that the person has had these conditions manifest between the person's birth and 22nd birthday.

The results of both the standardized general intelligence test and the standardized assessment of adaptive functioning shall consist of:

a) the clinical data and an overall score,

b) a statement by the certifying practitioner that the results are considered valid and consistent with the person's degree of functional restriction, and

c) a statement by the certifying practitioner as to whether the results indicate that the person has mental retardation.

The requirement for a standardized general intelligence test may be waived for a person who is unable to communicate and follow directions to the extent that the use of standardized measures is precluded. In such cases, the requirement for the standardized intelligence test shall be satisfied by a licensed psychologist's (or psychiatrist's) written statement that the person's inability to communicate and follow directions precludes the use of standardized measures. The statement should include the opinion of the certifying practitioner that the person has mental retardation.

The requirement for a standardized general intelligence test and an assessment of adaptive functioning may also be waived for a person who has documentation obtained from the individual's family, County MH/MR Program, human service agency, school, or other agency which verifies that the individual received mental retardation services in the past, or would have received such services if they had been made available.

The following documentation of mental retardation will not be accepted for purposes of PASARR without further corroboration of mental retardation that conforms with the requirements of this section:

1. A medical evaluation for use by the Department, which is currently the MA-51.

2. Certification of mental retardation by a professional employed or affiliated with a nursing facility which is involved in the individual's transfer, placement or discharge, and

3. Certification of mental retardation by an agency or individual whose function or relationship with the individual constitutes a conflict of interest, as determined by the Office of Mental Retardation.

4. Evaluation material which does not substantiate that the onset of the individual's impairment occurred prior to the age of 22.

#### B. Procedures

The Level I or identification (ID) Phase of PASARR includes a screening to identify persons who may have mental retardation. This ID screening is conducted by the nursing facility, the applicant or someone who is knowledgeable about the applicant, or the hospital where the person is receiving medical care. The ID screen is then verified by:

- the Options Site for individuals who are considered for admission into a nursing facility as part of the preadmission screening process.
- the Utilization Management Review (UMR) Team for individuals who are residing in a nursing facility as part of the Annual Resident Review (ARR) process.

The Options Site or UMR Team will notify the individual, the family, or legal representative about the results of the screening when the individual is suspected of having mental retardation. Family notification during this and other phases of PASARR is contingent on the agreement of the individual to involve his/her family members.

Evaluation to corroborate mental retardation is conducted during the PASARR Level II or Evaluation Phase. During the Evaluation Phase, the Options Site or UMR Team consults with the responsible County MH/MR Program and establishes whether the individual has mental retardation in accordance with the criteria established in this bulletin.

Corroboration of mental retardation has to be established only once for an individual. If the Options Site or UMR Team cannot corroborate mental retardation during the Evaluation Phase, but has reason to believe that the individual has mental retardation, the evaluator is responsible to ensure that any necessary assessments are conducted for this purpose. Assessments are to be arranged by the Options Site or UMR team after consultation with the responsible County MH/MR Program. The purpose of this consultation is to determine if the individual is known to the county system, and if assessments that document mental retardation are available.

Assessments may be completed by the County MH/MR Program, or a consultant of the Options Site or UMR Team. Selection of Options Site Consultants who provide pre-admission assessments that establish an individual's mental retardation should have the involvement of responsible County MH/MR Programs, beginning with contracts established in fiscal year 1994-95.

Reasonable efforts are expected by all parties in the evaluation process to establish the age of disability onset. If reasonable efforts are made and disability onset prior to the age of 22 cannot be established, the individual should not be placed in the mental retardation target population.

The Options Site or UMR Team recommendation to the Office of Mental Retardation about nursing facility or specialized services must include documentation of mental retardation when nursing facility services are determined to be needed. A recommendation without corroboration of mental retardation will be returned to the evaluator for additional information. If the Office of Mental Retardation does not concur that this person has mental retardation, the person's name should be removed from the OBRA target population.

For purposes of OBRA, the responsible County MH/MR Program is the County MH/MR Program which was or would have been responsible for providing services to the individual immediately prior to the individual's admission into the nursing facility. For example, a gentleman who lived in Pennsylvania County A is admitted to a nursing facility in a neighboring County. The County MH/MR Program for County A is the responsible County Program, since it provided community mental retardation services for the individual prior to

being admitted to the nursing facility. Agreements between County MH/MR Programs are encouraged to facilitate the provision of appropriate case management and other services when individuals reside in nursing facilities which are too far for the responsible County to effectively serve. The Regional Office of Mental Retardation should be contacted if there are delays in deciding which is the responsible County MH/MR Program.

## PART II. DETERMINATION OF NEED FOR NURSING FACILITY SERVICES

### A. Criteria

An individual with mental retardation as determined in Part I. A. of this bulletin will be determined to need nursing facility services when the individual meets the standards for admission to a nursing facility. In order to meet these standards for admission and be determined to require the level of services provided by a nursing facility, the individual must be determined to have age-related health problems and/or medical needs which cannot be treated in the home and community.

The only exception to the preceding criteria is for individuals requiring specialized services who have resided in a nursing facility for at least 30 consecutive months prior to the date of the individual's initial determination to not need nursing facility service. These individuals may choose to remain in the facility, or may choose to move to an alternative residential setting.

### B. Responsibilities

The Regional Office of Mental Retardation is responsible for determining the need for nursing facility services for individuals with mental retardation.

The determination will be based on an evaluation of the individual's total needs, including health and age-related needs, by Options Site or UMR Team in consultation with the responsible County MH/MR Program, individual, family, and providers of service.

Except for data required as part of an advance group determination explained below, the elements of the evaluation will consist of minimum data requirements and an evaluation report, as explained in Parts III and IV of this bulletin. Recommendations which do not contain documentation in accordance with minimum data requirements will be returned to the evaluator without determination.

### C. Types of Determinations

Determinations of need for nursing facility services may be made on an advance group or individual basis. Advance group determinations take into account that certain age or health-related conditions clearly indicate that nursing facility services are needed, or that specialized services are not needed. Individual determinations take into account each individual's conditions.

An advance group determination may be made applicable by the nursing facility or other evaluator following the ID if the existing data about the individual appear to be current and accurate and are sufficient to allow the evaluator to readily determine that the individual fits into the advance group category.

Sources of existing data that can form the basis of applying the advance group determination include hospital records, physician evaluation, election of hospice status, and records of mental retardation providers or the responsible County MH/MR Program.

Individuals who have an advance group determination applied after the ID review are exempt from further pre-admission screening procedures, as long as their nursing facility stay corresponds with the limits established by the Department. Extension of nursing facility stays beyond established limits are subject to pre-admission screening or other reviews required by the Department.

1. Advance Group Determinations on Need for Nursing Facility Services

Advance group determinations on need for nursing facility services for individuals requesting admission to or residing in a nursing facility can be made under the following circumstances:

a) Individual is an Exempted Hospital Discharge

Although identified as an individual with mental retardation, an applicant/resident may be directly admitted for nursing facility services from an acute care hospital for a period up to 30 days without further evaluation if such admission is based on a written medically prescribed period of recovery for the conditions requiring hospitalization.

b) Individual Requires Respite Care

Although identified as an individual with mental retardation, an applicant/resident may be admitted to a nursing facility for respite care for a period up to 14 days without further evaluation if he or she is certified by a referring or attending physician to require 24 hour nursing facility services and supervision.

c) Individual is in a Coma or Functions on a Brain Stem Level

Although identified as an individual with mental retardation, an applicant/resident may receive nursing facility services without further evaluation if certified by the referring or attending physician to be in a coma or functioning on a brain stem level.

2. Advance Group Determinations on Specialized Services

An advance group determination that specialized services are not needed may be made when the individual has a primary diagnosis of dementia which exists in combination with mental retardation.

### 3. Individual Determinations

An individual determination on need for nursing facility and specialized services is made for each individual whose condition does not warrant an advance group determination. The individual determination is based on a comprehensive evaluation of the individual's medical and mental status, and a functional assessment, as specified in Section III of this bulletin.

To facilitate appropriate nursing facility utilization, individual determinations for nursing facility services may be made for a period of 180 days or less when the circumstances warranting admission are expected to be time limited. An example of a time limited circumstance is the need for an extended period for recuperation from an accident or illness. An admission of this nature to the nursing facility will require a comprehensive evaluation of the individual's medical and mental status, and a functional assessment. Continued stay in the nursing facility will be based on a resident review conducted by the UMR Team by the end of the authorized period.

#### D. Release of Information

The County MH/MR Program and its designee(s) are authorized to release information requested by Options and UMR Teams pertaining to an individual's application to a nursing facility, continued stay in a nursing facility, and other purposes of this bulletin.

Persons who are involved in the direct administration of the Medicaid Program do not need special release of information forms to allow them access to individual files and other pertinent information in order for them to carry out their assigned duties. Therefore, staff from the Office of Medical Assistance Programs, Division of Long Term Care Client Services, or their agent, the Pennsylvania Department of Aging's Option Program, are to have full access and cooperation when requesting information on individuals who are in, or who have applied for nursing facility services.

### PART III. DETERMINATION OF NEED FOR SPECIALIZED SERVICES.

#### A. Specialized Services Criteria

For the purposes of this bulletin, the term specialized services means services, which combined with services provided by the nursing facility or other service providers, results in treatment which includes aggressive, consistent implementation of a program of specialized and generic training, treatment and related services that are directed toward:

1. The acquisition of the behaviors and skills necessary for the individual to function with as much self-determination, and independence as possible, and
2. The prevention or deceleration of regression or loss of current optimal functional status.

Specialized services may be provided in or outside the nursing facility and can only be provided by qualified mental retardation personnel. A service or combination of services of less intensity than services meeting the definition of specialized services are the responsibility of the nursing facility, and should be provided as a nursing facility service.

An example of a "nursing facility" service would be occupational therapy to help individuals use a knife and fork at meal times. An example of a specialized service would be a regularly attended structured day support program outside the facility where the individual receives occupational therapy in conjunction with other services provided by qualified mental retardation personnel.

Additional information related to specialized services and nursing facility services is provided by Interpretive Guidelines issued by the Office of Medical Assistance Programs. (See Attachment D.) Updates to these guidelines and other information on the interfacing of specialized and nursing facility services will continue to be forwarded to County MH/MR Programs by the Office of Mental Retardation.

#### B. Procedures

##### 1. Responsibilities

The determination of need for specialized services is made by the Office of Mental Retardation based on a comprehensive evaluation of the individual's medical and mental status, and a functional assessment.

The comprehensive evaluation is completed by the Options Site or UMR Team in consultation with the responsible County MH/MR Program designee, the individual, and the individual's family or legal guardian. The Options Site or UMR Team is responsible for gathering all pertinent information and forwarding it to the responsible County MH/MR Program, which in turn, forwards the information, together with its concurrence/non-concurrence and comments to the Regional Office of Mental Retardation. The Regional Office of Mental Retardation will then determine need for specialized services as part of the individual's determination notice, as included in Part IV.

Specialized services are then authorized by the responsible County MH/MR Program for individuals with mental retardation who are residents of a nursing facility when the individual's needs are such that continuous supervision, treatment, and training by qualified mental retardation personnel are necessary.

## 2. Data Requirements

The evaluation of the individual's medical and mental status, and a functional assessment require collection of the following minimum data:

- 1) The individual's age and health-related problems
- 2) The level of impact these age and health related problems have on the individual's independent functioning
- 3) All current medication used by the individual and the current response of the individual to any prescribed hypnotic, antipsychotic, mood stabilizer, antidepressants, antianxiety-sedative, or anti-Parkinson medications
- 4) Self-monitoring of health status
- 5) Self-administration and scheduling of medical treatment
- 6) Self-monitoring of nutritional status
- 7) Self-help development such as toileting, dressing, grooming and eating
- 8) Sensori-motor development, such as ambulation, positioning, transfer skills, gross motor dexterity, visual motor perception, fine motor dexterity, eye-hand coordination, and extent to which prosthetic or other supportive devices can improve the individual's functional capacity
- 9) Speech and language (communication) development, such as expressive and receptive language, and extent to which nonoral amplification or other communication systems can improve the individual's functional capacity
- 10) Social development, such as interpersonal skills, recreation-leisure skills, and relationships
- 11) Academic/education development, including functional learning skills
- 12) Independent living development such as meal preparation, budgeting and personal finances, survival skills, mobility skills, laundry, housekeeping, shopping, bedmaking, care of clothing, and orientation skills

- 13) Vocational development, including present vocational skills
- 14) Affective development such as interests and skills involved with expressing emotions, making judgments, and making independent decisions, and
- 15) The presence of identifiable challenging behaviors.

#### Adaptation to Culture, Language, Ethnic Origin, and Communication

All evaluations are to be adapted to the individual's cultural background, language, ethnic origin, and means for communication, such as signing.

If an Options Site or UMR Team is unable to evaluate an individual's needs in a manner which adapts to these circumstances and conditions, the evaluator will arrange for the appropriate persons who are competent in these matters to assist in the evaluation process.

#### Data Interpretation

Based on the minimum data, the Regional Office of Mental Retardation will make a qualitative judgment on the extent to which the person's status reflects the characteristics commonly associated with the need for specialized services. These characteristics include the inability to:

- take care of personal care needs
- understand simple commands
- communicate basic needs and wants
- be employed at a productive wage without systematic long-term supervision or support
- learn new skills without aggressive and consistent training
- apply skills learned in a training situation to other environments or settings without aggressive and consistent training
- demonstrate behavior appropriate to the time, situation, or place without direct supervision
- make decisions requiring informed consent without extreme difficulty
- demonstrate behavior which does not severely jeopardize health and safety
- attain skills or specialized training without the constant availability of trained mental retardation personnel

PART IV. EVALUATION REPORT AND DETERMINATION NOTICES.

A. Summary

Findings and recommendations related to establishing mental retardation, need for nursing facility services, and need for specialized services are combined in a written evaluation report.

A preliminary evaluation report is developed by the Options Site or UMR Team in consultation with the individual, the individual's family and the responsible County MH/MR Program. This preliminary report should contain all findings and recommendations related to the individual's mental retardation, need for nursing facility services, and need for specialized services.

The preliminary report is forwarded by the Options Site or UMR Team to the responsible County MH/MR Program for concurrence/non-concurrence. The County MH/MR Program will review and concur/non-concur on the preliminary report or offer comments on the report in a timely manner. The Regional Office of Mental Retardation will be copied on the transmittal letter from the preliminary report sent to the responsible County MH/MR Program by the Options Site or UMR team. The County MH/MR Program is responsible for forwarding the preliminary report, together with the County's concurrence/non-concurrence and/or comments to the Regional Office of Mental Retardation.

Based on the data compiled in the preliminary evaluation report, the Regional Office of Mental Retardation will: 1) ensure that all necessary information is available to finalize the report, 2) validate that the individual has mental retardation, and 3) determine whether nursing facility and/or specialized services are needed. Notice of determinations, together with the final evaluation report, will be distributed to the appropriate individuals and agencies by the Regional Office of Mental Retardation.

In the preliminary evaluation report, the Options Site, and UMR Team will make a recommendation on each individual's need for nursing facility services and specialized services. The Regional Office of Mental Retardation will then issue a determination based on this preliminary evaluation report.

The Preadmission Screening process only requires a determination for both nursing facility services and specialized services when nursing facility services are determined to be needed. If nursing facility services are determined not to be needed during the Preadmission Screening process, the Office of Mental Retardation will not determine need for specialized services.

B. Evaluation Report

The preliminary and final evaluation report for individuals with mental retardation will contain:

1. Information corroborating the individual's mental retardation in accordance with the criteria and procedures indicated in Part I of this bulletin.

2. Evaluation findings and recommendations related to the individual's need for nursing facility services in accordance with the criteria and procedures indicated in Part II of this bulletin.

3. Evaluation findings and recommendations related to the individual's need for specialized services in accordance with criteria and procedures indicated in Part III of this bulletin.

4. A summary which:

a. identifies the name and professional title of the person(s) who performed the evaluation(s), and the date when each portion of the evaluation was administered

b. summarizes the individual's medical and social history, including the positive traits and developmental strengths, weaknesses, or needs of the individual

c. identifies the specific nursing and specialized services which are required for the individual

d. identifies the name and mailing address of the individual's family and/or legal representatives who are entitled to receive copies of the determination notice, and

e. identifies adaptations to cultural background, language, ethnic origin, and means of communication which should be followed as part of the notification process.

C. Individualized Determination Notice and Evaluation Report Issuance

The Office of Mental Retardation will issue its individualized determination notice, together with the final evaluation report, to the:

1. Evaluated individual and his/her legal representative
2. Admitting or retaining nursing facility (if known)
3. Individual's physician (if known)
4. Discharging hospital (if applicable)
5. Responsible County MH/MR Program
6. Office of Medical Assistance Program or designee
7. Referring Options Site for individuals undergoing a preadmission screening, and
8. County Assistance Office.

The determination will include notice of:

1. Whether a nursing facility level of services is needed
2. Whether specialized services are needed
3. The options available to the individual consistent with these determinations, including the option of home and community services, where appropriate.
4. The right of the individual to appeal certain determinations, and
5. Other information related to the individual's choice to receive services, and services provided by the County MH/MR Program and advocacy agencies.

Procedures related to the rights of the individual to appeal determinations and exercise individual freedom of choice are contained in Attachments A and B of this bulletin.

The County MH/MR Program will ensure that the final evaluation report is interpreted to the individual and where applicable to the individual's legal representative. This interpretation of the evaluation report should be done within 30 working days after the County's receipt of the evaluation report.

If technical assistance is needed in interpreting the report, the County MH/MR Program may request assistance from the Regional Office of Mental Retardation or the appropriate Options Site or UMR Team.

#### Timeliness

According to Federal regulations, preadmission screening determinations by the Office of Mental Retardation should be made in writing within an annual average of seven to nine working days of referral of the individual to the Office of Mental Retardation by whatever agent performs the ID screening. Although additional time may be necessary to procure appropriate data and interpretation of findings for individuals in this target population, all parties are encouraged to fulfill their PASARR responsibilities as expeditiously as possible in order to avoid Federal financial penalties.

The Office of Mental Retardation may convey determinations verbally to nursing facilities and the individual and confirm them in writing.

Annual review of nursing facility residents with mental retardation should be conducted not less often than annually, which means during every fourth quarter after the previous preadmission screen or annual resident review.

PART V. RESPONSIBILITIES OF COUNTY MH/MR PROGRAMS

County MH/MR Programs retain certain responsibilities for individuals with mental retardation requesting admittance to or residing in nursing facilities.

A. PASARR Activities

PASARR responsibilities of the County MH/MR Program consist of:

1. Providing technical assistance and support to Options Site and UMR Teams in corroborating whether an individual has mental retardation.
2. Providing technical assistance and support to Options Site and UMR Teams in evaluating the individual's need for nursing facility services and specialized services.
3. Providing written concurrence/non-concurrence and/or comments on the preliminary evaluation report submitted by the Options Site or UMR Team.
4. Interpreting the findings of the evaluation report to the individual, or his/her representative within 30 working days of issuance of the determination notice by the Regional Office of Mental Retardation. For the purposes of this bulletin, 30 working days are based on a five day work week.
5. Offering the right to choose alternative home and community based services to individuals residing in a nursing facility for at least 30 continuous months prior to the date of determination.

B. Additional OBRA Related Activities

County MH/MR Programs are responsible for the following additional non-PASARR, OBRA related activities for individuals with mental retardation residing in or discharged from nursing facilities:

1. Providing or arranging for specialized services for individuals residing in nursing facilities.
2. Providing or arranging for home and community services for individuals discharged from nursing facilities.
3. Developing an individual plan for specialized services or home and community services within 30 working days of issuance of the Office of Mental Retardation's determination. The Regional Office of Mental Retardation should be contacted if an extension to this 30 day time frame is required.

C. Budgeting/Funding

The County MH/MR Program is responsible for budgeting for the cost of both PASARR and other OBRA related activities and services through the needs-based budgeting process and through the annual rebudget process.

Funding for the cost of OBRA related activities is to be available through the County's Community Mental Retardation allocation including, but not limited to:

1. The Medicaid 2176 Waiver for home and community services.
2. Targeted Service Management for: a) the transition of individuals leaving the nursing facility during the last 30 days of the individual's nursing facility placement, and b) locating, coordinating and monitoring home and community services in accordance with the approved State Plan Amendment.

Additional funding guidelines for PASARR and OBRA related services will be issued to the County MH/MR Programs, as necessary, by the Office of Mental Retardation.

## ATTACHMENT A

### PASARR APPEAL PROCEDURES

#### A. General Provisions

An individual who is adversely affected by any PASARR determination made by the Office of Mental Retardation in the context of either a preadmission screening or an annual resident review has the right to a fair hearing in accordance with the following procedures.

These appeal procedures only apply to Regional Office of Mental Retardation determination notices which indicate that:

- the individual has mental retardation based on a Level II (Evaluation Phase) review (Level I determinations are not subject to appeal).
- the individual seeking admission into a nursing facility is not eligible for nursing facility services.
- the individual is not considered appropriate for continued placement in a nursing facility.
- the individual does not need specialized services.

Individuals who reside in a nursing facility have the right to refuse specialized services. Individuals who refuse specialized services will be expected to indicate their choice as part of the nursing facility's record.

#### B. Individual Representation

Unless the individual is adjudicated incompetent and has had a guardian appointed, the individual has the right to represent him/herself or to select another representative during the fair hearing process. The person representing the individual may be a friend, advocate, or family member.

The representative selected by the individual may be free legal services or the individual's personal attorney. The Regional Office of Mental Retardation will inform the individual of the appropriate Office to be contacted for free legal services as part of its determination notice.

Individuals adjudicated incompetent shall be represented by their guardian or a person the guardian selects as the representative.

#### C. Procedures of Notification and Appeals

The following procedures are followed in regard to notification and appeals:

1. The individual is notified of his/her right to appeal by the Regional Office of Mental Retardation as part of its determination letter.

2. The individual guardian or representative files a completed request for a fair hearing. The request must be forwarded within 30 calendar days of the date of the Regional Office of Mental Retardation determination notice to:

The Office of Hearings and Appeals  
Department of Public Welfare  
PO Box 2675  
Harrisburg, Pennsylvania 17105-2675

3. The Office of Hearings and Appeals holds a telephone or face-to-face hearing for the individual. The individual, guardian, or representative may choose which type of hearing is held, and indicate if the individual needs a translator or other accommodations.

4. The Office of Hearings and Appeals will make a decision regarding the Appeal and will forward the notice of its decision to the individual. The decision of the Office of Hearings and Appeals is subject to Appeal to the Secretary of Public Welfare or through Commonwealth Court in accordance with stipulations included in the decision letter.

## ATTACHMENT B

### FREEDOM OF CHOICE

Under OBRA, certain individuals may receive home and community service as an alternative to nursing facility care. The following procedures apply to the freedom of choice individuals can exercise in the provision of services.

The individual's freedom of choice of service options will be explained as part of the Regional Office of Mental Retardation's determination notice.

The actual choice of service options will be offered to the individual or his/her representative by the County MH/MR Program prior to development of the individual's specialized service plan and annually thereafter.

#### A. Individuals Who May Choose to Receive Specialized Service in a Nursing Facility or Other Setting

Individuals who have resided in a nursing facility for 30 consecutive months from the date of determination and who require specialized services, but do not need the level of services provided by a nursing facility have the choice to continue to reside in the facility or to receive services in alternative home and community settings.

Individuals who meet this criteria have the freedom to choose the following home and community service alternatives to nursing facility care:

1. Home and community based services provided under the Department's 2176 Waiver Program for persons with mental retardation.
2. Other community mental retardation services provided by or through the County MH/MR Program, including but not limited to case management services, family support services, community residential services, and adult day services.
3. ICF/MR services.

A sample choice form is contained as part of this attachment. The choice form should be maintained by the County's case manager and by the nursing facility, if the individual chooses nursing facility care.

#### B. Individuals Who Must Be Discharged From the Nursing Facility

##### 1. Short-Term Residents Needing Specialized Services

Individuals who have resided in a nursing facility for less than 30 consecutive months prior to the date of determination, who require specialized services, but do not require the level of care provided by a nursing facility must be discharged to an appropriate setting where specialized services are available.

The County MH/MR Program will develop program plans for these individuals for community mental retardation services which may include:

a. Home and community-based services provided under an approved 2176 Waiver.

b. Other community mental retardation services provided by or through the County MH/MR Program.

c. ICF/MR services.

Individuals meeting this criteria have no right to freedom of choice beyond these rights of other persons who receive community mental retardation services.

C. Short and Long-Term Residents

Individuals residing in a nursing facility who require neither specialized services, or the level of care provided by a nursing facility must be discharged from the facility.

Individuals who meet this criteria will be referred to appropriate community resources by the nursing facility.

## ATTACHMENT C

### DEFINITION OF TERMS

1. Utilization Management Review (UMR) Team. A team of health care professionals who are employed by the Office of Medical Assistance, Department of Public Welfare, to conduct annual resident reviews with individuals in nursing facilities.
2. Options Site. Case workers and other health care professionals who are employed and contracted by the local Area Agency on Aging (AAA) to conduct pre-admission evaluation and screening for individuals seeking admission to nursing facilities. The Department of Public Welfare contracts with the Department of Aging to supervise and support the work of these professionals.
3. Qualified Mental Retardation Professional. A health care professional with experience with individuals with developmental disabilities who meets the criteria for a qualified mental retardation professional provided under Federal regulations for ICF/MR. (42 CFR 483.430(a))
4. New Admission. The process of admitting an individual to any nursing facility for the first time. With the exception of exempt hospital discharges, new admissions are subject to preadmission screening.
5. Exempt hospital discharge. An individual who is admitted to any nursing facility directly from a hospital after receiving acute inpatient care at the hospital, who requires nursing facility services for the condition for which he or she received care in the hospital, and whose attending physician has certified before admission to the facility that the individual is likely to require less than 30 days of nursing facility services. An individual who enters a nursing facility on an exempted hospital discharge status and is later found to require more than 30 days of nursing facility care must have an annual resident review within 40 calendar days of admission.
6. Readmission. The process of readmitting an individual to a nursing facility from a hospital where care was received and from other sources. Readmissions from hospitals where care was received are subject to annual resident reviews rather than preadmission screening.
7. Interfacility Transfers. The process of transferring an individual from one nursing facility to another nursing facility, with or without an intervening hospital stay. Interfacility transfers are subject to annual resident review rather than preadmission screening.
8. Responsible County Mental Health/Mental Retardation (MH/MR) Program. For purposes of OBRA, the responsible County MH/MR Program is the County MH/MR Program which was or would have been responsible for providing services to the individual immediately prior to the individual's admission into the nursing facility.

9. Nursing facility services.

Nursing facility services mean services which are provided as a responsibility of the nursing facility, including specialized rehabilitation services.

10. Specialized Services. For the purposes of this bulletin, the term specialized services means services provided on a continuous basis by Qualified Mental Retardation personnel which, combined with services provided by the nursing facility or other service providers, results in treatment which includes aggressive, consistent implementation of a program of specialized and generic training, treatment and related services that are directed toward:

1. The acquisition of the behaviors and skills necessary for the individual to function with as much self-determination, and independence as possible, and
2. the prevention or deceleration of regression or loss of current optimal functional status.

11. Legal Representative. A court appointed guardian or individual having power of attorney.

THIS NUMBER	REGULATION	
7405-A	<p><u>§403.43 Specialized rehabilitative services.</u></p>	
7405	<p>(a) <u>Provision of services.</u></p> <p>If specialized rehabilitative services such as, but not limited to, physical therapy, speech-language pathology, occupational therapy, and health rehabilitative services for mental illness and mental retardation are required in the resident's comprehensive plan of care, the facility must--</p> <p>(1) Provide the required services; or</p> <p>(2) Obtain the required services from an outside resource (in accordance with §403.75(h) of this part) from a provider of specialized rehabilitative services.</p>	<p><u>Interpretive Guidelines §403.43(a)</u></p> <p><u>Specialized rehabilitative services</u> differentiates these services from restorative services provided by the nursing staff.</p> <p>Specialized rehabilitative services are considered a facility service and are, thus, included within the scope of facility services. They must be provided to residents who need them even when the services are not specifically enumerated in the State plan. No fee can be charged a Medicaid recipient for specialized rehabilitative services because they are covered facility services.</p> <p>A facility is not obligated to provide specialized rehabilitative services if it does not have residents who require these services. If a resident develops a need for these services after admission, the facility must either provide the services, or, where appropriate, obtain the services from an outside resource.</p> <p>For a resident with mental illness (MI) or mental retardation (MR) to have his or her specialized needs met, the individual must receive all services necessary to assist the individual in maintaining or achieving as much independence and self-determination as possible. They are:</p> <ul style="list-style-type: none"> <li>o <u>Specialized services:</u> Those services to be provided by the State which can only be delivered by personnel or programs other than those of the WF (e.g., outside the WF setting) because the overall level of WF services is not as intense as necessary to meet the individual's needs.</li> <li>o <u>Health rehabilitative services for MI and MR:</u> Those services of lesser frequency or intensity to be implemented by all levels of nursing facility staff who come into contact with the resident who is mentally ill or who has mental retardation. These services are necessary regardless of whether or not they are required in the subject to the Predominant Degrading and Annual Resident Review (PARARR) process and whether or not they require additional services to be provided or arranged for by the State as specialized services.</li> </ul> <p>The facility should provide interventions which complement, reinforce and are consistent with any specialized services (as defined by the State) the individual's plan consistent with any specialized services (as defined by the State). The individual's plan of care should specify how the facility will integrate relevant activities and enhancement of PARARR goals. The supervisor should see competent interaction by staff at all times, in both formal and informal settings in accordance with the individual's needs.</p>

210  
NUMBER

REGULATION

F406  
Cont.

- Health rehabilitative services for MI and IM may include, but are not limited to:
  - Consistent implementation during the resident's daily routine and across settings of systematic plans which are designed to change inappropriate behaviors
  - Drug therapy and monitoring of the effectiveness and side effects of medications which have been prescribed to change inappropriate behavior or to alter manifestations of psychiatric illness;
  - Provision of a structured environment for those individuals who are determined to need such structure (e.g., structured socialization activities to diminish tendencies toward isolation and withdrawal);
  - Development, maintenance and consistent implementation across settings of those programs designed to teach individuals the daily living skills they need to be more independent and self-determining including, but not limited to, grooming, personal hygiene, mobility, nutrition, vocational skills, health, drug therapy, and mental health education, money management, and maintenance of the living environment;
  - Crisis intervention services;
  - Individual, group, and family psychotherapy;
  - Development of appropriate personal support networks; and
  - Formal behavior modification programs.

Survey Procedures and Probe: §403.45(a)  
 For sampled residents, whose comprehensive assessment indicates physical, psychosocial, and/or communications rehabilitation potential (see sub-sections E, C, D, M), and where you observe unmet needs for rehabilitative services, determine, as appropriate:

- [For physical therapy]
  - What did the facility do to improve the resident's muscle strength? The resident's balance?
  - What did the facility do to determine if an assistive device would enable the resident to reach or maintain his/her highest practicable level of physical function?
  - If the resident has an assistive device, is he/she encouraged to use it on a regular basis?
  - What did the facility do to increase the amount of physical activity the resident could do (for example, the number of repetitions of an exercise, the distance walked)?
- [For occupational therapy]
  - What did the facility do to decrease the amount of assistance needed to perform a task?
  - What did the facility do to decrease behavioral symptoms?
  - What did the facility do to improve gross and fine motor coordination?
  - What did the facility do to improve sensory awareness, visual-spatial awareness, and body integration?
  - What did the facility do to improve memory, problem solving, attention span, and the ability to recognize safety hazards?

GUIDANCE TO SUPERVISORS - LONG TERM CARE FACILITIES

GUIDANCE TO SUPERVISORS

TAG NUMBER	REGULATION	
P407	<p>(b) <u>Qualifications:</u>  Specialized rehabilitative services must be provided under the written order of a physician by qualified personnel.</p>	<p><u>Interpretive Guidelines: §403.45(b)</u>  "Qualified personnel" means that professional staff are licensed, certified or registered in accordance with applicable state laws.</p> <p>Health rehabilitative services for MI and NM must be implemented consistently by all staff unless the nature of the services is such that they are designated or required to be implemented only by licensed or credentialed personnel.</p> <p><u>Survey Procedures and Probes: §403.45(b)</u>  If you find problems in quality of care related to maintaining or improving functional abilities, are these problems attributable in part to the qualifications of specialized rehabilitative services staff?</p> <p>If the facility does not employ professional staff who have experience working directly with or designing training or treatment programs to meet the needs of individuals with MI or NM, how has the facility arranged for the needed direct or staff training services to be provided?</p>



# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE  
May 13, 2003

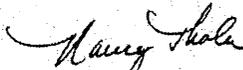
EFFECTIVE DATE  
IMMEDIATELY

NUMBER  
00-03-04

SUBJECT:

OBRA Time-Limited Determinations

BY:

  
Nancy R. Thaler  
Deputy Secretary for Mental Retardation

## SCOPE:

County MH/MR Administrators  
Base Service Unit Directors  
Community Residential MR Facility Directors  
State ICF/MR Directors  
Non-state ICF/MR Directors  
Medicaid Certified Nursing Facility Administrators  
Office of Income Maintenance Directors  
County Assistance Office Directors

## PURPOSE:

The purpose of this Bulletin is to clarify and communicate procedures for re-evaluating OBRA Time-Limited Determinations of an individual's need for nursing home services and/or specialized services.

## BACKGROUND:

The Office of Mental Retardation (OMR) issues OBRA Time-Limited Determinations for individuals who need to receive nursing facility services for a period of 180 days or less.

## DISCUSSION:

The following procedures must be used when re-evaluating an OBRA Time-Limited Determination for those individuals initially determined eligible for 180 days or less of nursing facility services.

- The person was determined to need time-limited nursing home/specialized services by the Regional Office of Mental Retardation.
- If nursing facility services are anticipated to be medically necessary beyond the 180 days, the nursing facility will notify the County Mental Health/ Mental Retardation (MH/MR) Program that they request an extension of the time-limited determination period. The request must be received by

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO THE APPROPRIATE REGIONAL PROGRAM OFFICE.

the County MH/MR Program at least 30 days prior to the end of the initial 180 days. Also, the nursing facility will send a Medical Assistance (MA) 408 to their Utilization Management Review (UMR) team 30 days prior to the end of the initial 180 days if no discharge is anticipated. This will be considered a change in condition.

- The County MH/MR Program immediately contacts the Regional OMR to review the nursing facility's request to ensure that the conditions of the request are appropriate and that the extension is due to the person's change in health or age-related condition(s). If a determination can be made at this point through discussions with the County MH/MR Program and the nursing facility, a letter is issued by the Regional OMR.
- If the Regional OMR requires additional information to make a final determination, Regional staff will confer with the County MH/MR Program and the nursing facility. If a determination still cannot be issued, the Regional OMR will contact the UMR Supervisor in charge of the nursing facility team to request that a re-evaluation be completed. If the team considers the re-evaluation unnecessary, they will advise their Central Office of Medical Assistance Programs (OMAP) office who will notify the OMR. The OMR will then respond to the OMAP regarding actions to be taken.
- When the UMR team conducts an evaluation at the request of the Regional OBRA Coordinator, they submit the re-evaluation results and their recommendation(s) to the County MH/MR Program and the Regional OMR following current procedures.
- The Regional OMR will issue a determination on need for nursing facility/specialized services following current procedures.

If a person is not eligible for nursing facility placement beyond 180 days, the nursing facility will proceed with appropriate discharge or alternate arrangements for payment for the individual's continued stay.

## Office of Mental Retardation Regional Offices/Counties

**Central Region** (717) 772-6507  
430 Willow Oak Bldg P. O. Box 2675  
DGS Annex Complex  
(formerly Harrisburg State Hospital)  
Harrisburg PA 17105-2675

Bedford/Somerset  
Blair  
Cambria  
Centre  
Colombia/Montour/Snyder/Union  
Cumberland/Perry  
Dauphin  
Franklin/Fulton  
Juniata Valley Tri-County  
Lancaster  
Lebanon  
Lycoming/Clinton  
Northumberland  
York/Adams

**Northeast Region** (570) 963-3031  
315 Scranton State Office Building  
100 Lackawanna Avenue  
Scranton PA 18503

Berks  
Bradford/Sullivan  
Carbon/Monroe/Pike  
Lackawanna/Susquehanna/Wayne  
Lehigh  
Luzerne/Wyoming  
Northampton  
Schuylkill  
Tioga

**Southeast Region** (215) 560-2242  
306 Philadelphia State Office Bldg  
1400 Spring Garden Street  
Philadelphia PA 19130

Bucks  
Chester  
Delaware  
Montgomery  
Philadelphia, City of

**Western Region** (412) 565-5144  
302 Pittsburgh State Office Bldg  
300 Liberty Avenue  
Pittsburgh PA 15222

Allegheny  
Armstrong/Indiana  
Beaver  
Butler  
Cameron/Elk/McKean  
Clarion  
Clearfield/Jefferson  
Crawford  
Erie  
Fayette  
Forrest/Warren  
Greene County Human Services  
Lawrence  
Mercer  
Potter  
Venango  
Washington MH/MR Program  
Westmoreland



# The Community Mental Retardation System

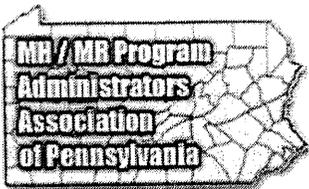
## County Mental Retardation Offices

Mental Retardation Services are administered through county Mental Health/Mental Retardation (MH/MR) program offices. These offices are part of county government and are overseen by a county MH/MR administrator.

The county MH/MR offices serve as a referral source. Most actual mental retardation services are delivered by local provider agencies under contract with the county MH/MR office. The county MH/MR office determines a person's eligibility for service funding and if found eligible a person will receive a Supports Coordinator. The Supports Coordinator will:

- Talk with you about what kinds of supports and services would be helpful to you
- Offer you an opportunity to complete an application for the Medicaid Home and Community Based Waiver Program.
- Enroll you in services which requires completing applications.
- Help you develop your individual plan.
- Help you talk with individuals or agencies in the community that could support you.
- Coordinate and monitor supports and services.

Phone numbers and addresses for county MH/MR offices.



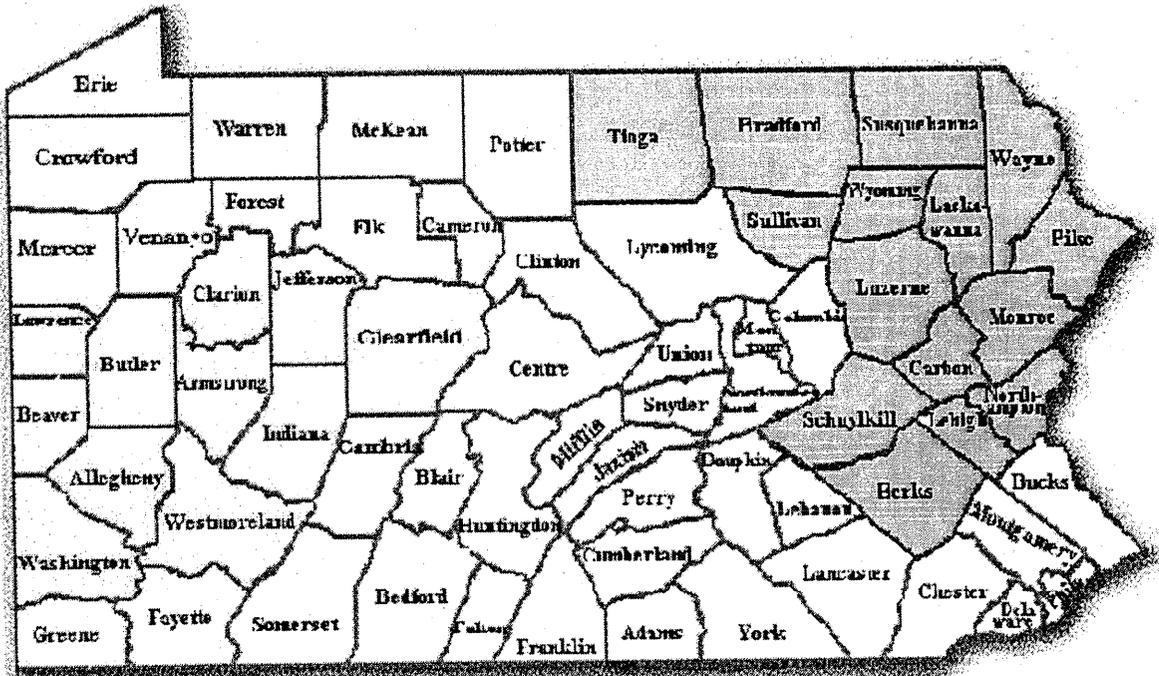
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 Kenneth Sheasley, Administrator  
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 R.D. #8, Box 293  
 Kittanning, PA 16201  
 724.548.3451

**BEAVER**  
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 148 Theodore Drive  
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# Policy for Determining Eligibility for Mental Retardation Services and Supports

## Policy for Determining Eligibility for Mental Retardation Services and Supports

It is the policy of the Office of Mental Retardation (OMR) to use the following criteria to determine eligibility for mental retardation services and supports in accordance with 55 Pa. Code § 4210.101:

### 4210.101a Clarification of eligibility determinations - Statement of Policy

A. The essential feature of Mental Retardation is significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety. The onset must occur before the individual's 22nd birthday.

1. Except as specified in (b)(2) below, significantly sub-average general intellectual functioning shall be determined by a standardized, individually administered, intelligence test in which the overall full scale IQ score of the test and of the verbal/performance scale IQ scores are at least two standard deviations below the mean taking into consideration the standard error of measurement for the test. The full scale IQ shall be determined by the verbal and performance IQ scores.

2. Diagnosis of mental retardation is made by using the IQ score, adaptive functioning scores, and clinical judgment when necessary. Clinical judgment is defined as reviewing the person's test scores, social and medical history, overall functional abilities, and any related factors to make an eligibility determination. Clinical judgment is used when test results alone cannot clearly determine eligibility. The factors considered in making an eligibility determination based on clinical judgment shall be decided and documented by a licensed psychologist, a certified school psychologist, a physician, or a psychiatrist. In cases where individuals display widely disparate skills or achieve an IQ score close to 70, clinical judgment should be exercised to determine eligibility for mental retardation services.

3. If eligibility cannot be determined through a review of the individual's record and social history, any necessary testing (e.g., adaptive functioning) shall be completed by a licensed psychologist, a certified school psychologist, a physician, or a psychiatrist. This includes determining the eligibility for an individual who is 22 years of age or older, has never been served in the mental retardation service system, and has no prior records of testing. Clinical judgment may be used to determine whether the age of onset of mental retardation occurred prior to the individual's 22nd birthday.

B. Everyone can be evaluated or assessed.

1. Standard tests with adaptations for the individual's visual, motor, and language impairments are available and valid. Other efforts to adapt the IQ test to the individual's particular visual, motor, and/or language impairments must be described and documented.

2. Developmental scales may be used for people who do not or cannot participate in testing. The use of these scales reflects a necessity to use scoring matrices for populations outside the sample used to develop the normative data. They should only be used when no other standard testing technique is available.

6. Genetic conditions and syndromes defined by particular physical features or behaviors such as Klinefelter syndrome are not, by themselves, sufficient to qualify for a mental retardation eligibility determination.

7. The policy for legal and illegal aliens is indicated below:

1.C Citizenship is not an eligibility requirement for receipt of mental retardation services and supports in Pennsylvania. The only distinction in this matter is between those who are lawfully in this country (both citizens and aliens) and those who are here unlawfully (illegal aliens).

2.I Illegal aliens are not eligible for the Medicaid Program unless an emergency medical condition is present (42 U.S.C.A. §1396b(v)). Counties are not required to provide mental retardation services for illegal aliens.

8. An individual who is currently eligible for mental retardation services will remain eligible for mental retardation services unless eligibility testing indicates otherwise.

9. An individual moving into Pennsylvania from another location will receive a mental retardation eligibility determination for mental retardation services based on the clarification described in this statement of policy.

10. Except for waiver services, appeals from a denial of eligibility follow the county administrative process designed for appeals under the Local Agency Law (2 Pa. C.S. §§551-555) and appealing through the courts. The Local Agency Law is a state law governing procedures for appeals of local agency determinations.

11. Fiscal issues, such as access to testing and payment for testing, should be referred to the appropriate Office of Mental Retardation Regional Office for resolution.

#### Questions:

For questions on eligibility you may call the OMR Customer Service Number.



# Medicaid Waivers

## What is a Waiver?

Waiver is a shortened term for the Medicaid Home and Community Based Waiver Program which provides funding for mental retardation supports and services to help you to live in your home and community.

The name Waiver comes from the fact that the federal government waives Medicaid rules for institutional care in order for the state to use the same funds to provide supports and services for people in the community. The state must make specific assurances to the federal government when requesting a Medicaid Waiver.

Federal and state funds are combined in Medicaid Waivers. The federal and state shares are not the same in each state and they are adjusted each year. In Pennsylvania it is generally a 50/50 split.

In Pennsylvania, the Office of Mental Retardation operates three waivers: Consolidated Waiver, Person/Family Directed Support Waiver and Infants/ Toddlers and Families Waiver. Each waiver has its own unique set of eligibility requirements and services.

## Why Should I Apply For Waiver Funding?

Waivers are the primary funding source for mental retardation supports and services in Pennsylvania. Waivers offer an array of services and benefits such as choice of qualified providers, due process, and health and safety assurances.

## To Whom Does the Person/Family Directed Support Waiver (P/FDS) and the Consolidated Waiver Provide Funding?

Both of these mental retardation waivers provide funding for supports and services to eligible persons with mental retardation who are age three and older so they can remain in their home and community. People can live in the home of their choice such as their family home or an apartment or home of their own, with people they choose.

Pennsylvania has set criteria to determine eligibility for mental retardation Medicaid waiver funding that is the same in all counties. Financial eligibility is based only on the income of the individual, not the income of the parents.

If you have questions about waiver eligibility you can call your Supports Coordinator at the County Office of Mental Retardation.

## How Does the Department of Public Welfare, Office of Mental Retardation get these Waivers?

The Department of Public Welfare (DPW), Office of Mental Retardation (OMR) must apply to the Centers for Medicare and Medicaid Services (CMS) to have waivers approved and they are then monitored by this federal agency. Waivers are approved for an initial period of 3 years and are renewed for a 5 year period. Waiver renewals are based on satisfactory provision of waiver services, meeting State assurances and a written application that describes how services will be provided during the

renewal period.

Before a waiver ends, OMR must submit a renewal request to CMS in order to continue to receive waiver funding.

### **What Do Waivers Mean To Me?**

- Waivers can provide funding for the supports and services that you need in order for you to remain in your home and community.
- You will have a choice of the approved waiver services you receive in order to meet your needs. These needs are identified when you do person centered planning that looks at your total life.
- You will have a choice of qualified people or agencies that provide supports or services that you need.
- Your health and safety will be assured.
- Supports and services will be monitored for quality. You will play an important role in deciding if you are receiving quality supports and services. If you are not satisfied with the quality, then you need to talk with the person or agency that provides your supports about improving the quality. You may also decide to choose a different provider. Supports Coordinators, County MH/MR Programs, the Independent Monitoring Team for Quality in your county and the Office of Mental Retardation all monitor for quality.

### **How Can I Use Waiver Funding?**

Both the P/FDS and the Consolidated Waiver can provide modifications to your home and vehicle and make them accessible. These modifications include such things as ramps, widening of doorways, bathroom modifications, and vehicle lifts. They also can provide day services such as a support person to assist you in participating in a wide range of activities in the community. Job coaching with someone to help you on the job either long or short term, can also be funded by the waivers. In addition, waivers can be used for transportation, respite care and physical, occupational and speech therapy.

Residential services are only available under the Consolidated Waiver.

This is not a complete list of services that can be paid for with waiver funding. You can check with your Supports Coordinator to see if other things you need are eligible to be funded under the waiver.

### **After I Apply for Waiver Funding, What Happens Next?**

If you are found eligible for waiver services and there is sufficient funding and capacity, you will begin to receive services. If there is not sufficient funding and/or capacity to serve you, you will be placed on a waiting list.

Your county will determine your place on the waiting list based upon the Prioritization of Urgency of Need for Services (PUNS) form that you complete with your Supports Coordinator.

### **How Long Will it Take to Get the Supports and Services That I Need?**

The primary factors that determine when you receive services are whether funding is available in your county and the urgency of your need. Each county gets an annual allocation of state and federal funds from DPW. Counties must prioritize people in the emergency and critical categories and enroll them in services up to the limit of their allocation.

Your urgency of need for services is determined from your completed PUNS form. There are 3 categories of need. The first, "Emergency Need" means you need support immediately. The second, "Critical Need" means you need support within one year. The third, "Planning for Need" is when your need for supports or service is more than a year away.

The number of people on Emergency and Critical lists ahead of you also influences how long you will have to wait for services.

Completing a PUNS form annually is important because it establishes your need and enables the county and state to prepare a budget request for expansion. For more information in completing the PUNS and the PUNS process, go to the Services and Supports Section under Mental Retardation Services.

### **If I Have P/FDS Waiver Funding and My Needs Increase, How do I Get Additional Funding?**

The amount of funding you receive is based on your Needs Assessment and Plan of Care. Since your needs are different from those of other people, the amount of funding you receive will be different from the funding received by other people.

The P/FDS Waiver has an upper funding limit of \$21,225 per person approved by CMS. If there are changes in your life and it is determined that the services and supports you need cost more than this amount, then a new PUNS form will be completed, and you may apply to enroll in the Consolidated Waiver. Your Supports Coordinator will complete this form with you.

### **Does the Consolidated Waiver Have an Upper Funding Limit?**

The Consolidated Waiver has no upper limit of funding for an individual. Funding is based on your Needs Assessment and Plan of Care. Since your needs are different from those of other people, the amount of funding you receive will be different from the funding received by other people.

States must assure the federal government that, on an aggregate basis, the total costs for people receiving services in the Home and Community Based Waiver is less than the cost of services in an institution.

### **What Will an Individual Budget Mean to Me?**

In the P/FDS Waiver you should have your own budget. It will allow you to prioritize which services are most important to you and dedicate more of your budget to those services. In the future people in the Consolidated Waiver will also have an individual budget.

You can look outside of the mental retardation system for people to provide some supports. After you find someone who can provide the supports you need, you can go to the county and ask them to contract with the new provider. Some agencies will work with you so that you can interview and hire people from the agency to provide your supports.

You are not limited to your county when you are looking for supports and services. You can choose a qualified person or provider agency that is located in a county near your home, if they are willing to provide the supports that you need.

### **Can I Hire Family Members and Pay Them With Waiver Funding?**

Siblings and other relatives who do not live with you, can be paid with waiver funding to provide

supports to you that are part of your Plan. Relatives who provide supports will have to meet some qualifications. People cannot be paid with waiver funding to provide supports that they normally would provide for free.

Parents, under specific conditions, can provide services to their own children (including minors) in the Consolidated Waiver. They must meet some qualifications and carry out the individual's plan.

**Questions:**

For more information or general questions you may call the OMR Customer Service Number.