

907 KAR 1:755. Preadmission Screening and Resident Review Program.

RELATES TO: KRS 205.558, 42 C.F.R. 431.200-431.250, 435.1009, 483.15, 483.100-483.138, 483.440, 42 U.S.C. 1396r

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.558

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the program requirements and payment provisions for preadmission screening and resident review (PASRR).

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Department approved system" means a technology system in which:

(a) Providers electronically submit and track level of care (LOC) requests through a self-service portal;

(b) The system triggers LOC tasks as reminders to providers and allows them to submit re-assessments electronically; and

(c) Information is exchanged electronically with Kentucky's:

1. Medicaid Enterprise Management Solution (MEMS); and

2. Integrated eligibility and enrollment system.

(3) "Department for Behavioral Health, Intellectual and Developmental Disabilities" or "DBHDID" means the state agency or its designee with the responsibility for both the evaluation and determination functions for individuals with serious mental illness, an intellectual disability, or a related condition as defined by 42 C.F.R. 483.106(d) and (e).

(4) "Exempted hospital discharge" means an individual:

(a) Who is admitted to a nursing facility directly from a hospital after receiving acute inpatient care at the hospital;

(b) Who requires nursing facility services for the condition for which the individual received care in the hospital; and

(c) Whose attending physician has certified, prior to admission to the nursing facility, that the individual is likely to require less than thirty (30) days nursing facility services.

(5) "Intellectual disability" is defined by 42 C.F.R. 483.102(b)(3).

(6) "Interfacility transfer" means an individual who is transferred from one (1) nursing facility to another nursing facility, with or without an intervening hospital stay.

(7) "Level of care of nursing facility services" means those standards as established by 907 KAR 1:022, Section 4.

(8) "New admission" means an individual who is admitted to a nursing facility (NF) for the first time or who is not a readmission or an exempted hospital discharge.

(9) "Nursing facility" or "NF" means a facility meeting the requirements established in 907 KAR 1:022.

(10) "Preadmission screening and resident review program" or "PASRR" means the process that:

(a) Screens and identifies an individual with a serious mental illness, an intellectual disability, or a related condition prior to admission to an NF;

(b) Results in a determination, based on a physical and mental evaluation of each individual with a serious mental illness, an intellectual disability, or a related condition, of the appropriateness of the individual's admission to an NF; and

(c) Identifies appropriate services if the individual is admitted to an NF.

(11) "Provisional admission" means an individual:

(a) Is admitted to an NF for fourteen (14) calendar days or less before a PASRR level II is required;

(b) Meets the level of care of nursing facility services as established in 907 KAR 1:022; and

(c)1. Has been diagnosed with delirium, which, pursuant to 42 C.F.R. 483.130(d)(4), precludes an accurate diagnosis and assessment until the delirium clears; or

2. Is in need of respite for an in-home care giver and to whom the individual with serious mental illness, an intellectual disability, or a related condition is expected to return after fourteen (14) days.

(12) "Readmission" means an individual who is readmitted to an NF from a hospital to which the individual was transferred for the purpose of receiving acute inpatient care.

(13) "Related condition" means a severe, chronic condition that meets the requirements established in 42 C.F.R. 435.1010.

(14) "Serious mental illness" means an individual's condition that meets the requirements established by 42 C.F.R. 483.102(b)(1).

(15) "Services of lesser intensity" means services that are:

(a) Within the scope of services provided or arranged by the nursing facility as included in the facility's per diem rate;

(b) Less intensive than specialized services; and

(c) Intended to help residents who have a serious mental illness, intellectual disability, or related condition to:

1. Improve, maintain, or prevent regression of optimal functional status; and

2. Achieve highest possible level of well-being.

(16) "Significant change" means that the individual's condition has had a major decline or improvement requiring a comprehensive reassessment.

(17) "Specialized services for an intellectual disability or a related condition" means the continuous, aggressive, and consistent implementation of a program of specialized and generic training, treatment, and health and related services, which are comparable to services an individual receives in an intermediate care facility for individuals with an intellectual disability (ICF-IID), or in a community based waiver program that provides services to persons with an intellectual disability in which twenty-four (24) hour supervision is available that is directed toward:

(a) The acquisition of the skills necessary for the person to function with as much self-determination and independence as possible;

(b) The prevention or deceleration of regression or loss of current optimal functional status; and

(c) The coordination and interaction, at all times and in all settings, of all staff and the individual served, in the implementation of the specified individual program plan (IPP) objectives for the individual.

(18) "Specialized services for serious mental illness" means the implementation of an individualized plan of care that:

(a) Is developed in conjunction with and supervised by a physician;

(b) Is provided by an interdisciplinary team of qualified mental health professionals;

(c) Prescribes specific therapies and activities for the treatment of a person who is experiencing an acute episode of serious mental illness that necessitates continuous supervision by trained mental health personnel; and

(d) Requires the level of intensity provided in a psychiatric inpatient hospital.

Section 2. General Applicability. (1) The PASRR process shall comply with the requirements

of 42 C.F.R. 483.100 through 483.138.

(2) The provisions of this administrative regulation shall be applicable to an individual applying for admission to, or continued stay in, a nursing facility (NF) participating in the Kentucky Medicaid Program.

(3) Pursuant to 42 C.F.R. 483.106(d) and (e), DBHDID shall be responsible for PASRR determination and evaluation functions.

(a) DBHDID shall evaluate and determine whether an individual applying for admission to an NF needs NF services and specialized services for a serious mental illness, an intellectual disability, or a related condition if indicated by a positive Level I PASRR screening.

(b) DBHDID may delegate the evaluation and determination functions for which it is responsible except that the designee shall not be an NF or an entity that has a direct relationship or indirect affiliation or relationship with an NF.

(4) For nursing facility reimbursement of services by the Medicaid Program, an individual shall be Medicaid eligible and meet the patient care criteria established by 907 KAR 1:022 and 907 KAR 1:025.

Section 3. Deemed Consent for PASRR. An individual applying for admission to, or requesting a continued stay in, a nursing facility participating in Medicaid shall be deemed to have given consent for the department to make the determination of appropriateness for the individual to enter or remain in the facility using the standards established by 42 U.S.C. 1396r.

Section 4. Level I PASRR Screening. (1) Except as provided by subsection (2) of this section, prior to admitting an individual, a nursing facility shall conduct a Level I PASRR screening using the department approved system as required by 42 C.F.R. 483.128. If a provider is not enrolled with Kentucky Medicaid, the provider shall use the MAP 409 paper form to conduct a Level I PASRR screening.

(2) A Level I PASRR screening shall not be conducted for:

- (a) Readmission;
- (b) Interfacility transfer;
- (c) Intermediate care facilities for individuals with intellectual disabilities; or
- (d) Hospital swing bed facilities.

(3) For a Level I screening that does not indicate a referral for a Level II evaluation, the NF shall submit to the department the Level I screening prior to or simultaneously with a request for certification of level of care for nursing facility services.

Section 5. Level II PASRR Evaluations. (1) If an individual is identified in the Level I PASRR screening as suspected of having a serious mental illness, an intellectual disability, or a related condition, a Level II PASRR evaluation shall be performed prior to the individual's admission to an NF unless the individual is a provisional admission, readmission, interfacility transfer, or exempted hospital discharge.

(a) The Level II PASRR evaluation shall be used to:

- 1. Evaluate and determine if an individual meets nursing facility level of care; and
- 2. Determine if the person requires specialized services or services of lesser intensity.

(b) The individual or legal guardian shall be notified by the NF of a referral to the appropriate entity for the Level II PASRR evaluation.

(2) If a Level II PASRR evaluation is required, the department approved system shall notify the appropriate entity to perform the Level II PASRR evaluation as required by this subsection.

(a) For a new admission, the appropriate entity shall complete a Level II PASRR evaluation prior to admission.

(b) For an exempted hospital discharge, the appropriate entity shall conduct a Level II PASRR evaluation and complete the determination within forty (40) calendar days of the date of admission to the NF.

(c) For a provisional admission pending clearing of delirium, the appropriate entity shall conduct a Level II PASRR evaluation and complete determination of the need for specialized services within nine (9) business days of the referral.

(d) If a significant change in the individual's condition occurs, the NF shall complete a significant change request in the department approved system within fourteen (14) calendar days and the appropriate entity shall complete the Level II PASRR evaluation within nine (9) business days.

(3) If a PASRR Level II determination results in a response to referral, an NF shall transmit to the department the Level I PASRR screening with a copy of the response to referral prior to or simultaneously with a request for certification of level of care for nursing facility services.

(4) DBHDID shall provide notification as required by 42 C.F.R. 483.130(k) and (l).

Section 6. Payments for PASRR Evaluations and Determinations. (1) The department shall reimburse DBHDID for the cost of providing PASRR services under this administrative regulation.

(2) The department's reimbursement to DBHDID for this purpose shall not exceed the actual cost to DBHDID, including contract costs, of implementing and operating the PASRR program.

(3) Except as provided in subsection (4) of this section, the department shall reimburse an NF if:

(a) The Level I PASRR screening and, if required, Level II PASRR evaluation are completed prior to a new admission and in a timely fashion as established in Sections 4 and 5 of this administrative regulation; or

(b) A review is required because of a significant change in the individual's condition, and it is performed timely in accordance with Sections 4 and 5 of this administrative regulation.

(4) If a Level I PASRR screening and, if required, a Level II PASRR evaluation are not timely completed prior to admission or a subsequent review is required but not timely performed in accordance with Section 8 of this administrative regulation, but the required PASRR process is performed at a later date, reimbursement shall be made for NF services provided after the PASRR process is completed if the individual is determined to need the level of care of nursing facility services.

(5) The department shall not reimburse an NF for specialized services provided to an individual who has a serious mental illness, has an intellectual disability, or has a related condition, and is in an NF. Services of a lesser intensity than specialized services shall be provided by an NF to an individual as recommended by the Level II PASRR evaluation.

Section 7. Admissions Criteria Under PASRR. (1) An admission to an NF shall be in accordance with 42 U.S.C. 1396r.

(2) An individual who has a serious mental illness, has an intellectual disability, or has a related condition shall not be admitted to an NF unless:

(a) The Level II PASRR evaluation determines that the individual requires the level of care of nursing facility services; and

(b) A determination of the need for specialized services for serious mental illness, intellectual disability, or a related condition is made.

Section 8. Criteria for Subsequent Reviews. (1) An individual in an NF shall not be subject to mandatory annual resident review in accordance with 42 U.S.C. 1396r. If an individual experi-

ences a significant change in condition, a Level II PASRR evaluation shall be conducted as established in Section 5 of this administrative regulation.

(2) An individual who is determined not to have a serious mental illness, not to have an intellectual disability, or not to have a related condition shall not be subject to further Level II PASRR activity.

(3) An individual who is determined to have a serious mental illness, to have an intellectual disability, or to have a related condition, but who requires the level of care of nursing facility services, may remain in the facility. A determination as specified in Section 5 of this administrative regulation shall be made as to whether specialized services for serious mental illness, intellectual disability, or a related condition are required.

(4)(a) An individual who has a serious mental illness, has an intellectual disability, or has a related condition, but who is determined not to require the level of care of nursing facility services but does require specialized services, may remain in the facility if the individual has continuously resided in an NF for thirty (30) months or more before the date of the determination.

(b) If an individual meets the criteria in paragraph (a) of this subsection and requires specialized services for serious mental illness, intellectual disability, or a related condition, DBHDID shall be responsible for the cost of those services.

(5) An individual who has a serious mental illness, has an intellectual disability, or has a related condition, and who is determined not to require the level of care of nursing facility services but does require specialized services and who has resided in an NF for less than thirty (30) consecutive months, shall be discharged from the NF in accordance with 42 C.F.R. 483.15 to an appropriate setting where specialized services shall be provided or arranged. The individual shall be advised by DBHDID of the individual's discharge rights in accordance with 42 C.F.R. 431.200 through 431.250 and 483.15.

(6) An individual who has a serious mental illness, has an intellectual disability, or has a related condition, and who is determined not to require the level of care of nursing facility services and does not require specialized services, regardless of length of stay, shall be discharged. The individual shall be advised by DBHDID of the individual's discharge rights in accordance with 42 C.F.R. 431.200 through 431.250 and 483.15.

Section 9. Responsibility of the Department for Inappropriately Placed Persons. (1) The department shall be responsible for the orderly discharge of an individual determined through the PASRR process established in this administrative regulation to be inappropriately placed.

(2) DBHDID shall be responsible for providing, or arranging for the provision of, specialized services to an individual for whom that need has been determined.

Section 10. Appeals. An individual who is determined not to require NF services or specialized services as a result of a PASRR determination by DBHDID may appeal the denial in accordance with 907 KAR 1:563.

Section 11. Incorporation by Reference. (1) MAP 409, "Nursing Facility Identification Screen (Level I PASRR)", February 2018, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, 6th Floor West, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (25 Ky.R. 1776; 2396; eff. 4-21-1999; TAm eff. 7-16-2013; Crt eff. 7-23-2018; 45 Ky.R. 2796; eff. 8-2-2019.)