RHODE ISLAND GOVERNMENT REGISTER

PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Executive Office of Health and Human Services

DIVISION: Medicaid Policy Unit

RULE IDENTIFIER: Medicaid Code of Administrative Rules, Section #0378, ERLID # 7151

REGULATION TITLE: "Institutional Care"

RULEMAKING ACTION: Regular Promulgation Process

Direct Final: N/A

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE: Public comment will end on **Friday, July 27, 2018.**

SUMMARY OF PROPOSED RULE: This rule describes the care that the Medicaid Program provides to LTSS beneficiaries in institutional health care facilities. This rule will be repealed and replaced by 210-RICR-50-05-1 entitled, "Medicaid Long-Term Services and Supports: Institutionally Based LTSS."

COMMENTS INVITED: All interested parties are invited to submit written or oral comments concerning the proposed repeal of these regulations by **Friday, July 27, 2018** to the address listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:
All written comments or objections should be sent to the Secretary of EOHHS, Eric J. Beane, c/o Elizabeth Shelov, Medicaid Policy Office, Rhode Island Executive Office of Health & Human Services
Mailing Address: Virks Building, Room 315, 3 West Road, Cranston, RI 02920
Email Address: Elizabeth.Shelov@ohhs.ri.gov

WHERE COMMENTS MAY BE INSPECTED:
Mailing Address: Executive Office of Health & Human Services, Virks Building, Room 315, 3 West Road, Cranston, RI 02920

PUBLIC HEARING INFORMATION:
If a public hearing is requested, the place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call (401) 462-6266 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

ALTERNATIVE PUBLIC HEARING TEXT:
In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of this notice.

FOR FUTHER INFORMATION CONTACT:
Elizabeth Shelov, Interdepartmental Project Manager, Medicaid Policy Office, Rhode Island Executive Office of Health & Human Services, Virks Building, Room 315, 3 West Road, Cranston, RI 02920 or Elizabeth.Shelov@ohhs.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

Societal costs and benefits have not been calculated in this instance. To be in conformity with the state and federal requirements, the state has little discretion in promulgating this rule. For full regulatory analysis or supporting documentation see agency contact person above.

Authority for This Rulemaking:

Title XIX of the U.S. Social Security Act provides the legal authority for the Rhode Island Medicaid Program. The Medicaid Program also operates under a waiver granted by the Secretary of Health and Human Services pursuant to Section 1115 of the Social Security Act. Additionally, R.I. Gen. Laws Chapters 40-6 and 40-8 serve as the enabling statutes for this regulation.

Regulatory Findings:

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Repeal:

The Executive Office of Health and Human Services proposes to repeal this rule in its entirety, as it is obsolete. LTSS institutional requirements for Medicaid are now contained in an alternate section of the Code (i.e., 210-RICR-50-05-1).

STATE OF RHODE ISLAND

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVCES

PUBLIC NOTICE OF RULE-MAKING

Section # 0378 of the Medicaid Code of Administrative Rules entitled,

"Institutional Care"

In accordance with Chapter 42-35 of the Rhode Island General Laws, as amended, and pursuant to the provisions of Chapters 40-6 and 40-8 of the Rhode Island General Laws, as amended, the Secretary of the Executive Office of Health & Human Services (EOHHS) hereby proposes to repeal the rule as contained in Section MCAR #0378, as referenced above.

In accordance with R.I. Gen. Laws 42-35-2.8(c), an opportunity for a hearing will be granted if a request is received by twenty-five (25) persons, or by a governmental agency, or by an association having not less than twenty-five (25) members, within ten (10) days of this notice that is posted in accordance with R.I. Gen. Laws 42-35-2.8(a). A hearing must be open to the public, recorded, and held at least five (5) days before the end of the public comment period.

In the development of these proposed regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses in Rhode Island. No alternative approach, duplication or overlap, or impact upon small businesses was identified based upon available information.

These proposed rules are accessible on the R.I. Secretary of State's website: http://www.sos.ri.gov/ProposedRules/, the EOHHS website: www.eohhs.ri.gov, or available in hard copy upon request (401 462-1575 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by **Friday, July 27, 2018** to: Elizabeth Shelov, Medicaid Policy Office, RI Executive Office of Health & Human Services, Virks Building, 3 West Road, Room 315, Cranston, RI 02920 or Elizabeth.Shelov@ohhs.ri.gov.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

The Executive Office of Health & Human Services in the Virks Building is accessible to persons with disabilities. If communication assistance (readers /interpreters /captioners) is needed, or any other accommodation to ensure equal participation, please notify the Executive Office at (401) 462-6266 (hearing/speech impaired, dial 711) at least three (3) business days prior to the event so arrangements can be made to provide such assistance at no cost to the person requesting.

Original signed by:

Eric J. Beane, Secretary
Signed this 27th day of June 2018

June 2018

THE FOLLOWING RULE WILL BE REPEALED IN ITS ENTIRETY:

~~0378 INSTITUTIONAL CARE 0378.05 PURPOSE OF PRIOR AUTHORIZATION~~

~~REV: 08/1998~~

~~Prior authorization is required for the Rhode Island Medical Assistance Program to provide payment for the care of Categorically and Medically Needy recipients in certain medical facilities. The purpose of prior authorization is to insure that the individual is placed in a facility appropriate to his/her service needs. Therefore the authorization process includes:~~

~~• Evaluating the recipient's needs for institutional care and the type of facility required;~~

~~• Screening potential nursing facility candidates for mental illness and mental retardation (PASRR);~~

~~• Authorizing Medical Assistance and vendor payments;~~

~~• Conducting periodic evaluations of the patient's needs.~~

~~0378.05.05 Authorization Responsibilities~~

~~REV: 08/1998~~

~~The district office Long Term Care/Adult Service (LTC/AS) units:~~

~~• Determine financial eligibility for MA;~~

~~• Determine patient income to be allocated to the cost of institutional care;~~

~~• Authorize vendor payments to nursing facilities;~~

~~• Assist in the evaluation of medically necessary care;~~

~~• Assist in placement of eligible individuals; and,~~

~~• Provide social services for applicants and recipients of long term care. The Office of Medical Review (OMR):~~

~~• Establishes the need for nursing facility care by an applicant or recipient prior to authorizing payment; and,~~

~~• Ensures that the PASRR Preadmission Screening requirement is completed.~~

~~0378.10 TYPES OF FACILITIES~~

~~REV: 08/1998~~

~~The Medical Assistance Program provides payment for the care of MA recipients in the following types of nursing facilities:~~

~~• Nursing Facilities (NF)~~

~~A patient qualifies for nursing facility care if s/he requires the services of professional or qualified technical health personnel such as registered nurses, licensed practical nurses, physical therapists, occupational therapists, speech pathologists, audiologists, or s/he requires assistance with activities of daily living. Activities of daily living include walking, bathing, dressing, feeding and~~

toileting. The facility must provide these services under the supervision of licensed nursing personnel.

• Intermediate Care Facility for the Mentally Retarded (ICF/MR) A patient qualifies for an ICF/MR level of care if s/he is mentally retarded, and requires supervision and/or assistance with activities of daily living.

The Medical Assistance Program also provides payment for medically necessary care in the following Public Medical Facility:

• Eleanor Slater Hospital. Patients in NFs, ICF/MRs, the Public Medical Facility and certain Waiver programs are considered to be institutionalized for purposes of determining eligibility for Medical Assistance. The Medical Assistance payment for institutional care is reduced by the amount of the individual's income after certain allowable expenses are deducted.

0378.15 DETERMINING CARE REQUIREMENTS

REV: 08/1998

Procedures for evaluating the type of care required by an individual will vary, depending on whether the individual requests placement from a community setting or while a hospital in-patient.

0378.15.05 Evaluating Needs, Hospital Patients

REV:03/1999

This policy section applies to the following individuals seeking nursing facility placement from a hospital:

• Individuals seeking initial NF placement;

• Individuals who left a NF to enter assisted living, and are now seeking readmission to a NF;

• Individuals who left a nursing facility to return to the community for other than short term social or therapeutic stays, and are now seeking readmission to a NF.

Discharge staff at Rhode Island acute care hospitals have been delegated the authority to make preliminary evaluations of the need for nursing facility care. At the time of discharge to a nursing facility, the hospital social worker or nurse:

• Completes the CP-1 evaluation instrument;

• Sends the original CP-1 and a copy to LTC/Office of Medical Review unit at C.O., along with the PASRR ID screen (See Section 0378.25), a notification of recipient choice (CP-12) and an Inter-agency Referral form;

• Sends a copy of the CP-1, the PASRR forms, and the interagency referral form with the patient to the facility. Upon approval of the CP-1 evaluation by the Nurse Consultant in the DHS Office of Medical Review (OMR), nursing facility payment is authorized. Copies of the CP-1 and CP-12 are sent to the DHS district office.

Out-of-state hospitals send the PASRR required forms, copies of the medical (72.1) and social worker (70.1) forms, and/or other comprehensive assessments to the DHS Nurse Consultant in the DHS Office of Medical Review. Upon approval, the MA-510 (Authorization for a Level of Care

~~in a Nursing Facility) is completed by the DHS Nurse Consultant and forwarded to the appropriate DHS district office.~~

~~When the approved CP-1 or MA-510 is received in the district office, the worker notifies the applicant or recipient of the decision and, if necessary, assists in the placement.~~

~~The level of care information is entered to the InRhodes system via the STAT/CARE panel.~~

~~Note: MA recipients who have been admitted to the hospital from a nursing facility and are being discharged to the same or another NF are considered to be continuously institutionalized and a new evaluation (CP-1) is not required at the time of their readmission to the NF.~~

~~0378.15.10 Evaluating Needs, Community Applicants~~

~~REV: 08/1998~~

~~When a person residing in the community requests direct placement into a nursing facility, the following documentation is assembled by LTC/AS staff and transmitted to the OMR unit at CO:~~

~~• A medical evaluation of the applicant by a physician, Form AP- 72.1;~~

~~• An evaluation completed by the LTC/AS unit social worker establishing the applicant's functional abilities, living arrangements and service needs, Form AP-70.1;~~

~~• PASRR ID Screen (MA/PAS-1). (See Section 0378.25);~~

~~If an emergency placement is indicated, the worker contacts the LTC/OMR Unit for emergency authorization of nursing facility placement. Otherwise, as soon as the documentation is received by the LTC/OMR Unit, the Nurse Consultant reviews the evaluations and determines the need for nursing facility care. The decision is transmitted to the LTC/AS staff on Form MA-510, Authorization for Care in a Nursing Facility.~~

~~When the MA-510 is received in the district office, the worker notifies the applicant or recipient of the decision and, if necessary, assists in locating a suitable facility. If space is not available, the worker places the individual's name on a waiting list.~~

~~The level of care information is entered to the InRHODES system via the STAT/CARE panel.~~

~~0378.15.15 Evaluating Needs, ICF-MR Care~~

~~REV: 08/1998~~

~~Caseworkers at the Department of Mental Health, Retardation, and Hospitals are authorized to determine an individual's need for ICF/MR level of care. The caseworker completes the CP-1 form, and forwards it and the PASRR ID Screen to the LTC/OMR Unit at C.O. for review and approval.~~

~~The level of care information documented on the CP-1 is entered to the InRHODES system via the STAT/CARE panel.~~

~~0378.15.20 Re-Evaluation of Needs~~

~~REV:04/2006~~

~~When the Office of Medical Review (OMR) in the Center for Adult Health determines that an individual meets a nursing facility level of care and/or that a full Identification Screen has been received, the OMR Nurse Consultant designates those instances in which the individual's medical~~

information indicates the possibility of significant functional and/or medical improvement within two (2) months. The OMR maintains all records of pending and completed reviews including all cases requiring future review.

Notification is sent to both the individual, his/her authorized representative and the Nursing Facility by the OMR that a Nursing Facility level of care has been approved, but functional and medical status will be re- reviewed in thirty (30) to sixty (60) days. At the time of the review, the OMR Nurse Consultant must first confirm that the individual remains a resident of the nursing facility. For clients remaining in a nursing facility, the Nurse Consultant reviews the most recent Minimum Data Set and requests any additional information necessary to make one of the following determinations:

1. The individual no longer meets a nursing facility level of care. In this instance, the Long Term Care Office is notified of the Level of Care denial, and the individual, his/her authorized representative if one has been designated, and the nursing facility are sent a discontinuance notice by the Long Term Care Unit. Any fair hearing appeal requests resulting from this Level of Care discontinuance notice will be defended by the Office of Medical Review.

2. The individual continues to meet a level of care, and no action is required.

0378.20 AUTHORIZATION OF MA PAYMENT

REV:08/1998

Level of care information (and PASRR information for individuals whose authorized level of care is a nursing facility) is entered to InRHODES and maintained via the STAT/CARE panel.

LTC/AS unit staff approve MA eligibility for institutionalized individuals and authorize vendor payments on behalf of the individual via the InRHODES ELIG/AUTH panel, provided a prohibited resource transfer does not prevent Medical Assistance payment for the cost of nursing facility care.

If payment to the nursing facility will be made, the worker determines the amount of the patient's income which must be applied to the cost of nursing facility services. The Medical Assistance payment for care in a nursing facility is reduced by the amount of the patient's applied income. See Section 0392, POST-ELIGIBILITY OF INCOME, for policy regarding allocation of income to the cost of institutional care.

0378.20.05 Payment for Nursing Facility Services

REV: 08/1998

Special attention must be paid when a recipient who has Medicare coverage is a resident of a nursing facility. If Medicare coverage is authorized, then Medicare payment for the NF services must be utilized before Medical Assistance payment will be made. For patients requiring "skilled" services, Federal Medicare helps pay for up to a maximum of 100 days in a participating nursing facility per spell of illness. For persons enrolled in Part A of Medicare, hospital insurance pays for all covered nursing facility services for the first 20 days, if approved. Medically necessary care for the balance of 80 days requires a co-insurance payment. Medical Assistance will pay a recipient's "co-insurance" for approved skilled nursing days if the patient has insufficient income, and no "Medigap" coverage.

~~0378.20.05.05 Payment to Long Term Care Facilities~~

~~REV: 09/2010~~

~~Each nursing facility has a per diem rate established by the Rate Setting Unit within the Division of Medical Services, determined on the basis of the cost of operating the facility, and on the need of its residents for nursing care (acuity). The payment to the facility is made for all persons authorized to receive service in the facility. Payment is made for the day of admission to the facility, regardless of the hour, but is not made for the day of discharge, regardless of the hour.~~

~~0378.20.05.10 Bed-Hold Days~~

~~REV: 08/1998~~

~~When a patient goes to the hospital or otherwise temporarily leaves a LTC facility, the Agency makes no payment to retain a bed for the patient's return to the facility.~~

~~0378.20.10 Notice of Patient Placement or Discharge~~

~~REV: 08/1998~~

~~When a patient has been placed directly from his/her home into a nursing facility, the LTC/AS worker identifies the facility on the AP- 510 or CP-1 form, sends one copy of the AP-510 or CP-1 to the facility, and files a remaining copy in the case record.~~

~~0378.20.10.05 Facility's Notice of Admission or Discharge~~

~~REV: 08/1998~~

~~Each facility administrator is required to send a Notice of Admission (MA-602) to the appropriate DHS district office LTC unit whenever a recipient is admitted. The Admission Notice contains identifying data about the person and information pertaining to his/her eligibility for Medicare benefits.~~

~~The facility administrator is required to send a Notification of Discharge (MA-603) to the appropriate DHS district office LTC unit when care is no longer required and/or the person is discharged from the facility. Payment is not made to the facility for the day of discharge, regardless of the hour.~~

~~0378.20.15 Payment to Other Vendors or Facilities~~

~~REV: 01/2002~~

~~The district office LTC/AS units authorize vendor payments through MMIS to other types of vendors/facilities via InRHODES. Medicare does not provide payment for other than nursing facility services.~~

~~0378.25 PREADMISSION SCREEN/RESIDENT REVIEW (PASRR)~~

~~REV: 12/2008~~

~~All new candidates for admission to a nursing facility (NF) Licensed as a Medicaid provider must be screened for serious mental illness and mental retardation/developmental disabilities prior to admission. The procedure is known as the Preadmission Screening and Resident Review (PASRR).~~

PASRR has three major purposes which are:

• To assure that all candidates for admission to nursing facilities are properly screened for the existence of serious mental illness or mental retardation/developmental disabilities;

• To prevent the inappropriate admission to nursing facilities of individuals with mental illness or mental retardation/developmental disabilities; and,

• To assure that proper treatment plans for inpatients in nursing facilities who have serious mental illness and/or mental retardation/developmental disabilities are formulated and adjusted when necessary to meet treatment needs.

Medical Assistance cannot authorize a payment to a facility on behalf of an individual if the PASRR process is out of compliance. It is the responsibility of the nursing facility to assure that the preadmission screen requirements are complete on admission of the individual. Otherwise eligible Medicaid recipients cannot be billed for services for which federal financial participation is unavailable due to failure to comply with PASRR requirements.

For individuals seeking admission or readmission to a nursing facility from a hospital, the PASRR and level of care requirements must be completed by qualified hospital personnel.

An individual cannot be admitted to a nursing facility if it is determined by the Level II evaluation process that the individual's needs for specialized services for serious mental illness and/or mental retardation/developmental disabilities cannot be appropriately met in the nursing facility.

0378.25.05 Preadmission Screen - Levels of Evaluation

REV: 12/2008

Preadmission screening has two levels of evaluation--the Level I PASRR ID Screen and the Level II evaluation.

0378.25.05.05 PASRR Level I Evaluation - ID Screen

REV: 12/2008

The PASRR ID screen is the Level I evaluation instrument to screen for serious mental illness or mental retardation/developmental disabilities, and must be completed by a qualified health professional who is qualified to assess and diagnosis serious mental illness and mental retardation/ developmental disability; or the form must be reviewed and signed by a physician prior to admission to a nursing facility.

Completion of the ID Screen is required for all nursing facility initial admissions except for those individuals meeting the ID screen exemption condition.

0378.25.05.10 PASRR ID Screen Exemption

REV: 12/2008

Thirty (30) Day ID Screen Exemption The Level I PASRR process is required on all nursing facility applicants unless the applicant is an individual:

a) who is admitted to a NF directly from a hospital after receiving acute inpatient care at the hospital, and;

b) who requires NF services for the condition for which the individual received care in the hospital, and;

c) whose attending physician has certified, before admission to the facility that the individual is likely to require less than 30 days of NF services.

Such an individual is EXEMPT from the pre-admission screening aspects of PASRR. It is not necessary to complete either an ID screen or a Level II PASRR on these individuals. The exemption portion of the ID screen must be submitted with the level of care application.

An individual likely to reside in a nursing facility longer than 30 days; admitted for medical conditions secondary to a serious mental illness or for treatment of a serious mental illness, is not eligible for a 30 day exemption.

If at any time the exemption no longer applies, an ID Screen must be completed. If the patient is found to require longer than 30 days, an ID screen is due prior to the 25th day. When this ID screen indicates or suggests a serious mental illness, arrangements must be made for an immediate Resident Review (RR).

The PASRR evaluation stops at the Level I for those individuals who do not have identified or suspected serious mental illness or mental retardation/developmental disability.

0378.25.05.15 PASRR LEVEL II Exemptions

REV: 12/2008

The Level II PASRR evaluation process must be completed for individuals who have serious mental illness or mental retardation/developmental disability UNLESS one of the following three conditions exists:

Delirium-If the individual has delirium to the extent that an accurate psychiatric diagnosis cannot be made until the delirium clears, the delirium exemption applies. For all delirium exemptions, recommendations for medical and psychiatric follow-up at the nursing facility must be made prior to admission and must be included in the evaluation packet;

For the individual admitted under the delirium exemption, an ID Screen is required at the point that the delirium clears but no later than 30 days after admission. If this identifies or suspects serious mental illness, arrangements should be made for Resident Review; or

Dementia-If the individual has a PRIMARY diagnosis of dementia according to the DSM IV criteria (including Alzheimer's Disease or related disorders); or the individual has a primary diagnosis of an illness other than serious mental illness and a diagnosis of dementia (including Alzheimer's Disease or related disorder); AND a serious mental illness is not a primary problem. If the dementia exemption applies, the name of the physician confirming the diagnosis must be on the ID Screen. Supportive documentation to confirm the diagnosis must be included in the ID Screen evaluation packet. The Dementia exemption does not apply for the MR PASRR process; or

Respite Care - If the individual is admitted for respite care and is projected to require a stay of less than 30 days, the respite exemption applies.

Completion of the ID Screen ends the PASRR screening for these individuals during the duration of the level II exemption.

~~0378.25.05.20 PASRR Level II Evaluation~~

~~REV: 12/2008~~

~~In addition to the above 3 categories, some individuals who have suspected or identified serious mental illness will also have a serious illness with somatic medical needs which indicate a categorical determination of NF level of care. These Serious Illness Exception Conditions include:~~

~~Terminal Illness-The patient is being admitted to the nursing facility for care of a terminal illness, and has a life expectancy of less than six (6) months; or~~

~~Serious Illness-The patient is being admitted to the nursing facility for care of an illness so severe that specialized services as defined in Medicaid state plan for serious mental illness or mental retardation, is precluded.~~

~~If one of these exception conditions exists, a portion of the Level II evaluation must be submitted to the State Department of Mental Health Retardation & Hospitals (MHRH) for determination prior to the nursing facility admission.~~

~~0378.25.05.25 PASRR Level II Process~~

~~New: 12/2008~~

~~Those individuals identified by the Level I evaluation as having serious mental illness or mental retardation/developmental disability and not meeting one of the exemption conditions must be further evaluated to assure that nursing facility placement is appropriate with a PASRR level II evaluation. If the ID Screen indicates that an individual has both conditions, both processes are required.~~

~~PASRR-MI~~

~~With respect to the PASRR-MI process, the following procedural points should be noted. When an I.D. Screen identifies or suggests MI, a complete PASRR-MI screen includes:~~

~~• A Level I PASRR Identification Screen;~~

~~• Individual Notification of PASRR level II requirements;~~

~~• PASRR-MI Level II Screen requirements including:~~

~~• PASRR Level II Physical Health Screen requirements;~~

~~• PASRR Level II Psychiatric evaluation requirements; and~~

~~• also include the Rhode Island HEALTH Continuity of Care Form containing name of admitting nursing facility and update to recommendations for care planning for individuals being admitted to a nursing facility after a hospital admission.~~

~~PASRR-MR/DD~~

~~With respect to the PASRR-MR/DD process, the following procedural points should be noted. When an I.D. Screen identifies or suggests MR/DD, a complete PASRR-MR/DD screen includes:~~

~~• An Identification Screen, which is completed by the referring agency;~~

~~• Individual Notification of PASRR level II requirements;~~

~~• A PASRR-MR/DD Level II Data Sheet for those clients who are NEW referrals to the DD office. This form is completed by the referring agency and includes the results of cognitive testing and a social history, if available;~~

~~• Include the Rhode Island HEALTH Continuity of Care Form for individuals being admitted to a nursing facility after a hospital admission~~

~~• A PASRR-MR/DD Level II Resident Assessment Form for those clients who are open to DD and receiving services. This form is completed by the referring agency.~~

~~• A PASRR-MR/DD Level II Screen – to be completed by the DDA PASRR representative. The dementia exemption does not pertain to the MR/DD PASRR process. A Level II Screen will be necessary for individuals who have a dementia and a MR/DD diagnosis.~~

~~Emergency Nursing Facility Placement~~

~~All Level II pre-admission requirements must be completed prior to admission unless the individual is admitted under emergency protection services. Individuals who are admitted under emergency protection services must have a PASRR Level II completed within 7 days of admission. In these cases, the nursing facility must have documentation of the need for protective services in addition to the materials required for a routine pre-admission Level II or for an initial Resident Review.~~

~~Individual Notification~~

~~Individuals (or a responsible party) will receive written notification of their referral for PASRR level II review prior to the actual review process. The notification will inform the individual or responsible party that a more detailed patient assessment instrument will be completed.~~

~~Community Level II Evaluations~~

~~All individuals in the community whose ID Screens suggests the presence of mental illness and/or mental retardation/developmental disabilities, will need level II PASRR forms completed by a health care provider unless the individual is admitted under the emergency service or level II exemption provision. If the ID Screen indicates both mental illness and mental retardation/developmental disability, both processes are required. The PASRR level II forms must be forward to MHRH for appropriate review prior to admission. The nursing facility must assure that a decision is made prior to nursing facility admission. Nursing facility staff may not complete the entire level II PASRR-MI or MR/DD evaluation.~~

~~Initial Level II Evaluations in Hospital~~

~~Individuals applying for initial placement to a nursing facility from a hospital whose ID Screens indicates or suspects mental illness and/or mental retardation/developmental disabilities require level II PASRR forms completed by qualified hospital staff. If the ID Screen indicates both conditions, both the Mental Illness and Mental Retardation/Developmental Disabilities processes are required prior to the nursing facility admission unless the individual is admitted under the level II exemption provision. The PASRR level II forms must be forward to MHRH for appropriate review prior to discharge. The referring agency must assure that decision is made prior to nursing facility admission.~~

~~Level II Interagency Coordination~~

~~Prior to the nursing facility accepting the individual, the individual's health care provider completing the PASRR screen must provide the nursing facility information on the PASRR report, including the history of illness and treatment issues along with current symptoms and treatment needs, to assure that the NF can meet the needs of the individual.~~

~~The Mental Health Agency and/or Developmental Disability Agency must provide verbal approval prior to NF admission. The PASRR contact person is responsible for forwarding notification of the PASRR determination to the individual, and/or responsible persons, individual physician and admitting nursing facility. The complete Level II PASRR report, including consultation reports that require follow-up in the nursing facility, must be sent to the facility at the time of the admission. The Mental Health Agency will forward the determination letter to the PASRR contact person and the admitting nursing facility. The Developmental Disability Agency will forward the determination letter to the admitting nursing facility.~~

~~The Medicaid Agency is responsible for reviewing the nursing facility level of care portion of the PASRR determination and for providing notice of Level of Care approvals or denials as deligated by the MHA and/or DDA authority.~~

~~Level II Determination~~

~~The Mental Health Agency (MHA) is the state agency charged with making the final determination of whether serious mental illness exists, and the Developmental Disabilities Agency (DDA) is the state agency responsible for determining if mental retardation/developmental disabilities exists. MHA and DDA may also make the final decision regarding placement at a particular facility. The~~

~~Level II evaluation procedure varies, depending on the individual's diagnosis. Both procedures must be followed for persons diagnosed as having serious mental illness and mental retardation/developmental disability.~~

~~Both MHA and DDA may require additional evaluation material prior to making a final determination. When a decision on the diagnosis is made, MHA or DDA will notify the referring agent and the Medicaid Agency. The referring agent then notifies the evaluated individual (or the responsible party), and the admitting or retaining nursing facility. This notification will include the determination of serious mental illness or mental retardation/developmental disabilities, the need for specialized services, treatment recommendations and the individual's rights to appeal. Nursing facility placement cannot occur until the notification has been made.~~

~~The Medicaid Agency is delegated to provide the nursing facility level of care determination by the State Authority for Behavioral Health and Developmental Disabilities. Any denial must be authorized by the MHA/DDA consistent with federal regulations and the nursing facility level of care Medicaid Agency policy promulgated in the RI Medical Assistance Manual.~~

~~Specialized Services for Mental Illness~~

~~Specialized services do not have to be provided by nursing facilities. The term "Specialized Services" is equated with the level of care provided in psychiatric hospitals, or other intensive programs staffed with trained mental health professionals on a 24-hour/day basis. The patient's care follows the aggressive implementation of a treatment plan developed by an interdisciplinary team including a physician and other qualified mental health professionals and incorporates therapies supervised by these professionals. Treatment is aimed at diagnosing and reducing behavioral symptoms to improve the patient's level of functioning to a point that permits a~~

reduction in intensity of services as soon as possible. While some of these services may be the same as those required to be provided by the nursing facility, it is their intensive level that sets them apart.

Specialized Services for Mental Retardation/Developmental Disabilities

A continuous program for each client, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services that is directed toward: 1) the acquisition of the behaviors necessary for the person 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 does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous specialized services program.

DDA is responsible for the provision of specialized services, those services that will enhance the quality of life for persons with developmental disabilities as well as for the maximization of their potential for inclusion and participation in community life. The role of PASRR within the framework of services provided by DDA is to ensure the quality of care of those residing in nursing facilities with the diagnosis of MR/DD and to certify that a nursing facility is the most appropriate and least restrictive residential setting.

0378.25.10 RESIDENT REVIEW (PASRR)

REV: 12/2008

Amendments to the Social Security Act no longer require annual reviews for all nursing facility residents with SMI or MR/DD. The latest regulations emphasize resident reviews for a "Significant Change". This provides the flexibility to time evaluations and determinations when they are needed. However, Significant Change Resident Review, Change in Condition Resident Reviews, Periodic Resident Reviews and other Resident Reviews are still required under certain conditions.

0378.25.10.05 Resident Review (PASRR) for Serious Mental Illness

REV: 12/2008

PASRR Level II -MI Evaluations for Hospitalized NF Residents

Hospitalized nursing facility residents also require PASRR screens for certain conditions. A medical hospitalization for medical and /or psychiatric care that has a bearing on mental health needs requires a review for the need of a PASRR evaluation prior to returning to a nursing facility. Hospitalization for a condition primarily or secondarily related to an identified or suspected serious mental illness requires a level II PASRR evaluation.

Medical or psychiatric hospitalization for a change in mental status related to a mental disorder that does not require PASRR evaluation requires documentation of the mental disorder(s) to be treated in the nursing facility.

Significant Change Resident Reviews

Situations that require the nursing facility to provide prompt notification to MHA and the PASRR Review Evaluator for need of a Significant Change Resident Review include a decline or improvement in the resident's status identified by the MDS that impacts behavioral health needs.

~~The individual requiring the significant change RR may or may not have had a PASRR Level II Evaluation prior to the nursing facility admission.~~

~~This significant change will not normally resolve itself without further intervention; and has an impact on two or more areas of the resident's health status. This change may require further staff intervention, implementation of standard disease-related clinical interventions; interdisciplinary review; and/or revision of the care plan.~~

~~Significant Change Resident Reviews are also required for a significant change resulting in hospitalization in which the individual has not responded to hospitalization and/or nursing facility treatment.~~

~~Change in Condition Resident Reviews~~

~~Other situations also require the nursing facility to provide prompt notification to MHA and the PASRR Review Evaluator for need of a Change in Condition Resident Review when the situation impacts behavioral health needs and will not normally resolve itself without further intervention. The situation may require further staff intervention; implementation of standard disease-related clinical interventions; interdisciplinary review; and/or revision of the care plan.~~

~~Change in Condition Resident Reviews are required for situations including:~~

~~• Notice of nursing facility eviction related to the individual's mental illness;~~

~~• Use of police assistance, or other emergency services such as emergency room visits and regular use of PRN medication for at risk, dangerous or illegal behaviors that have not resolved with treatment;~~

~~• Refusal of treatment resulting in a significant risk to an individual's health status; and~~

~~• Alternative placement disposition issues where the individual or nursing facility is unable to arrange alternate placement; such as an alternative level of care.~~

~~Other Conditions Requiring a Resident Review~~

~~It is the responsibility of the nursing facility to complete the nursing facility PASRR Level II requirements for other situations that require a resident review including:~~

~~• Newly identified or suspected serious mental illness;~~

~~• A recurrence of a serious mental illness in an individual whose last PASRR did not specifically determine the individual as having a serious mental illness;~~

~~• Identification of PASRR level II exemption expirations or non-compliance with Preadmission Screening Resident Review Requirements; and~~

~~• Department of Mental Health and Retardation, Department of Health, Department of Human Service and Department of Elderly Affairs (DEA) Nursing Facility Ombudsman request for Resident Review for suspected serious mental illness, a significant change or change in condition.~~

~~Periodic Resident Reviews~~

~~Periodic Resident Reviews are required for individuals with serious mental illness under certain conditions described in PASRR procedures.~~

~~0378.25.10.10 Resident Review (PASRR) for MR/DD~~

~~REV: 12/2008~~

~~PASRR Level II MR/DD Evaluations for Hospitalized NF Residents~~

~~If a person should require hospitalization after admission to a nursing facility, a new PASRR will not be needed unless the hospital admission is the result of the individual's developmental disability.~~

~~Significant Change Resident Review~~

~~If there is a question of a significant change in a resident's physical or mental status or if an individual or his/her representative requests a less restrictive environment or alternative, the nursing facility is instructed to contact the MHRH Division of DD PASRR representative to determine if a resident review is necessary.~~

~~Given the nature of DDA services, significant change has other considerations in addition to a change in an individual's physical or mental status. The purpose of the PASRR MR/DD program is to assure the quality of care of individuals with developmental disabilities who reside in nursing facilities. In addition, the program ascertains that nursing facility care is necessary as well as the choice of the resident. Less restrictive residential options, if appropriate, are offered for consideration. Resident reviews are warranted in order to ensure quality care as well as to determine the need for residential alternatives.~~

~~Change in Condition Resident Reviews~~

~~Other situations also require the nursing facility to provide prompt notification to the PASRR-MR Evaluator for need of a Change in Condition Resident Review when the situation impacts needs for a developmental disability and will not normally resolve itself without further intervention. The situation may require further staff intervention; implementation of standard disease-related clinical interventions; interdisciplinary review; and/or revision of the care plan. Change in~~

~~Condition Resident Reviews are required for situations including:~~

~~• Notice of nursing facility eviction related to the individual's mental retardation or developmental disability related issues;~~

~~• Use of police assistance, or other emergency services such as emergency room visits and regular use of PRN medication for at risk or dangerous behaviors that have not resolved with treatment;~~

~~• Refusal of treatment resulting in a significant risk to an individual's health status; and~~

~~• Alternative placement disposition issues where the individual or nursing facility is unable to arrange alternate placement; such as an alternative level of care.~~

~~Other Conditions Requiring a Resident Review~~

~~It is the responsibility of the nursing facility to complete the nursing facility PASRR Level II requirements for other situations that require a resident review including:~~

~~• Newly identified or suspected mental retardation and/or developmental disability;~~

~~• Symptoms of a developmental disability as defined by MHRH in an individual whose last PASRR determination did not specifically determine the individual as having mental retardation and/or developmental disability;~~

~~• Identification of PASRR level II exemption expirations or non-compliance with Preadmission Screening Resident Review Requirements; and~~

~~• Department of Mental Health and Retardation, Department of Health, Department of Human Service and Department of Elderly Affairs (DEA) Nursing Facility Ombudsman request for Resident Review for suspected mental retardation and/or developmental disability or a related significant change or change in condition.~~

~~Periodic Resident Review~~

~~Resident reviews for MR/DD individuals are also conducted on a periodic basis. The PASRR MR/DD representative will contact the nursing facility and make arrangements for visitation and consultation. It is the responsibility of the nursing facility to complete the PASRR Level II Resident Assessment Form prior to the visit, unless the resident review is conducted during an unannounced nursing facility survey.~~

~~0378.25.10.15 Client in Crisis~~

~~REV: 12/2008~~

~~In addition to the Resident Review (RR), an intensified level of services may be indicated. If, however, a client is in a crisis situation that needs more care than the nursing facility can provide, it is the nursing facility's responsibility to transfer the client to a more appropriate setting.~~

~~0378.25.10.20 Summary of Nursing Facility Responsibility~~

~~REV:12/2008~~

~~Nursing facilities are responsible for the maintenance of all PASSR forms, including the ID Screen, within the individual's record. In order to ensure documentation compliance, nursing facilities are required to maintain an active list of individuals within the PASRR MI and MR/DD programs.~~

~~Facilities must also consider the PASRR; other related assessments and treatment recommendations within the care planning process. During the resident's annual care planning process, the nursing facility will complete an annual assessment and care plan update for individuals in the PASRR - MI and/or PASRR MR/DD tracking programs.~~

~~If the facility decides that a resident review is or might be necessary for a significant change, change in condition or other situation requiring a resident review, the nursing facility must promptly provide state notification in the form of a Notification of Need for Resident Review.~~

~~When there is a significant change in a resident's condition, a nursing facility is required to initiate treatment to meet immediate needs and begin a comprehensive reassessment. Treatment is geared to help the resident meet his/her highest practicable level, improve when possible and prevent avoidable decline.~~

~~The nursing facility is responsible for:~~

~~• Completing a comprehensive assessment by the 14th day after noting a significant change;~~

• Revising the care plan based on the reassessment within 7 days after its completion;

• Assure that specialized service needs, if any are identified, are met;

• Concurrently making a clinical judgment based on the person's response to treatment and current treatment needs, on whether the change in the resident's physical or mental condition warrants a Resident Review by the State within this 21 day time period.

When there is a need for periodic resident reviews to be conducted, the PASRR evaluator will contact the nursing facility and make arrangements for completion of required evaluations, visitation and consultation. The nursing facility is responsible for identifying those residents needing periodic reviews as defined in PASRR procedures; unless the review is requested by MHRH.

The nursing facility is responsible to complete the nursing facility PASRR Level II requirements prior to the visit; unless the review is performed during an unannounced survey visit.

In cases of inter-facility transfers, the transferring nursing facility is responsible for ensuring that the individual's PASRR evaluations accompany the individual.

0378.25.10.25 The PASRR Evaluator for Mental Illness

REV: 12/2008

The PASRR Evaluator will complete all PASRR level II evaluations in RI nursing facilities within the prescribed time frames. The PASRR Review Evaluator will receive notification of need for resident reviews along with the Department of Mental Health and Retardation. MHRH may determine the need for a delayed resident review, an abbreviated resident review or a resident review reevaluation. MHRH will also determine the need for additional evaluations and information updates in collaboration with the PASRR review evaluator and notify the nursing facility accordingly.

Each PASRR evaluation will include verbal communication with the nursing facility staff, an interview with the resident and family member, if applicable, record review and a written report that includes recommendations for care planning. The nursing facility will be provided with a copy of the PASRR evaluation and resident review tracking list signed by a nursing facility contact person. All evaluations completed by the PASRR Evaluator will be forwarded to MHRH for review and determination along with the resident review-tracking list.

In addition to requested reviews, the PASRR Evaluator will schedule appointments with each nursing facility for the purpose of conducting periodic resident reviews unless the review is performed during an unannounced survey visit.

0378.25.10.30 Interdepartmental Responsibilities

REV: 12/2008

Department of Human Services has the overall responsibility for the PASRR program and is accountable to assure that the process is followed.

MHRH Division of Behavioral Healthcare Services (State Mental Health Authority) reviews all level II PASRR evaluations for identified or suspected mental illness to make the final determination on whether a mental illness is present and if special services are required.

~~MHRH Department of Developmental Disabilities (State Mental Retardation Authority) conducts the Level II PASRR evaluations and determinations for residents with mental retardation/developmental disabilities.~~

~~The PASRR Review Evaluator is responsible for completing timely level II PASRR reviews within Rhode Island nursing facilities.~~

~~The Department of Health will continue their role as the state survey agency by sampling residents with serious mental illness and mental retardation/developmental disability for timely documentation completion and care plan requirements. =~~

~~0378.25.10.35 Quality Assurance Survey Program~~

~~REV: 12/2008~~

~~A quality assurance program is geared to assure the quality of services for nursing facility (NF) residents with mental illness and mental retardation/developmental disability. The program is a collaborative effort between the Department of Human Services, Department of Mental Health, Retardation and Hospitals, and Department of Health. The program is geared to reduce symptoms and behaviors, prevent regression and loss of functioning; maximize independence, improve abilities and capacity to transition from nursing facility back into the community. The program may include survey of residents previously determined to have or suspected of having a serious mental illness and/or mental retardation/developmental disability, review of the PASRR Evaluation, Plan of Care, and services provided. Training, consultation and limited technical assistance along with tools such as protocol, forms, and guidance to nursing facilities or evaluators may be provided to assure that treatment is geared to address the resident's needs.~~