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DMHSAS Numbered Memo 2015-05
Replaces 2004-17

To: Bureau/Office Directors
County Departments of Community Program Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Program Office Directors/Section Chiefs
Tribal Chairpersons/Human Services Facilitators
Hospitals
Nursing Homes
Facilities Serving People with Developmental Disabilities
Area Administrators/Area Coordinators

From: Patrick Cork, ACSW
Administrator
Division of Mental Health and Substance Abuse Services

Revision of the DDE-822 form and relabeled the form as F-20822 and revision of policy

The Division of Mental Health and Substance Abuse Services previously renumbered the DDE-822 form, which now is the [F-20822](#) form. The following changes to this form and the policy related to the county approval to admit a person who has a mental illness or developmental disability to a nursing home are:

- The county is only required to send a completed copy of the form to the nursing home that will admit the person who has a mental illness or developmental disability. The county is not required to send a copy of the completed form to the department.
- References to the establishment of nursing home care levels were deleted because the establishment of nursing home care levels now is automated. The instructions have been clarified to inform county staff that complete the form that they may check both a box related to a short-term exemption and a box related to a potential need for long-term placement.
- The short-term exemption of “pending alternate placement” for up to 30 days was removed; the emergency placement for up to 7 days should be used instead to address the emergency needs of a person. This will permit the county and facility to ensure the person’s health, safety and welfare by getting the person into the facility.
- Paragraphs were added to this numbered memo to clarify the difference in the definitions applicable to the county approval versus the Preadmission Screening and Resident Review (PASRR) Level I and Level II Screen process.
- A paragraph was added to explain the historical basis for the statutory requirements for the county approval.

Begin using the 01/2015 revised version of the [F-20822](#) now. This form is available in an Adobe Acrobat format, as well as a Microsoft Word format, and is electronically fillable.

Wisconsin Statutes §§ 50.04 (2r), 51.42 (3) (ar) 13., and 51.437 (4m) (L) were created in 1987 Wisconsin Act 27 along with § 51.40, which is entitled “Determination of residence for certain adults; county of responsibility.” These provisions became effective on August 1, 1987. These sections of the statutes were intended to clarify the determination of residency and responsibility for persons who have a mental illness or developmental disability (i.e., which state and which county is responsible for the health, safety, and welfare of a person who has a mental illness, developmental disability, or substance use disorder). Prior to the creation of these sections, many individuals were denied access to funding and services in the community if there was ambiguity of the individual’s county of residency and county of responsibility. These requirements, along with pertinent court cases, have nearly eliminated inter-county disputes regarding responsibility for a given individual.

Wisconsin counties continue to have responsibility and authority to review referrals to an ICF/IID for persons with intellectual disabilities (referred to as a developmental disability in Wisconsin Statutes) and referrals to a nursing home, whether or not the nursing home is Medicaid-certified or not, or is designated as an IMD or not. Persons with an intellectual/developmentally disability or mental illness cannot be admitted to such facilities unless the responsible county agency has reviewed the admission referral and has documented its appropriateness through the completion of the [F-20822](#), **irrespective of the nature or expected duration of the admission.**

Note: The county approval via the [F-20822](#) form is not transferrable from one nursing home to another.

Many individuals have noted that the county approval via the [F-20822](#) form seems to duplicate the requirements for the PASRR process, physician certification of the need for nursing facility placement, and, if necessary, a protective placement order. Despite the appearance, these processes do not duplicate one another. Each of these processes are required by State or federal law/regulation and serve different purposes. Because of the different purposes for each of these approval processes, the requirements for the qualifications of personnel conducting evaluations, type of evaluations performed, and the criteria for determining if a person should be admitted to a nursing facility differ.

PASRR only applies to Medicaid certified nursing homes. Any person, regardless of age or payment source, seeking admission to or residing in a Medicaid certified nursing home or a nursing facility-IMD must receive at least a Level I Screen from a nursing home or hospital to determine if the person has a developmental disability or mental illness. We are continuing to link the [F-20822](#) form with the PASRR process because of the important relationships among the counties, the nursing homes and the PASRR contractor in addressing the support needs of individuals. **The [F-20822](#) form must be completed for persons with an intellectual/developmental disability and/or mental illness who are seeking admission to any of the types of facilities identified on the form, without regard to the person’s age or payment source.**

PASRR does not permit any permanent exemptions. There are three allowable short-term admission exemptions that are noted on the [F-20822](#) form: Hospital Discharge-30 day maximum; Emergency Placement-7 day maximum and; Respite Care-30 days per year maximum. These three exemptions correspond with the exemptions on the Level I Screen (see page 3, Section B of the Level I Screen). The Level I Screen states that if a person meets one of the three short-term admission exemptions “the individual may enter the nursing facility with county approval through the [F-20822](#) form, for the specified period of time without a referral for a PASRR Level II Screen.” **Note: Short-term exemptions may not be used consecutively to extend the time in a facility without a PASRR Level II Screen, when a PASRR Level II Screen is warranted.** These exemptions are described in the paragraphs below.

Hospital Discharge Exemption – 30 days maximum. Under this exemption an individual may enter the nursing home from a hospital for the purpose of convalescing from a medical problem for 30 days or less if the person meets a required nursing care level (a skilled nursing facility level of care (SNF) for persons with developmental disabilities). If it appears that more than a 30 day post-hospital stay in a nursing home is needed, the nursing

home will need to contact the PASRR contractor to complete a Level II Screen as soon as the nursing home believes that the person will need to stay beyond 30 days. The county will need to complete another [F-20822](#) form if the county recommends a longer stay than is allowed in one of the short-term admission exemptions. This is explained below under “Level II Screen required.”

Emergency Placement – 7 day maximum. This exemption is to be used in situations where protective services (i.e., the person’s health, safety, and welfare are immediately at risk if action is not taken) are needed and a nursing facility stay of no more than 7 days is needed for further assessment and emergency planning purposes. For example, a person is admitted to an emergency room with a broken leg. The physician indicates that the person does not need to be hospitalized, but the person must remain off his/her feet to permit the leg to heal properly. However, due to the person’s intellectual/developmental disability or serious mental illness, the person is not likely to stay off his/her feet and the person’s prior living arrangement either cannot provide the appropriate supervision, accommodate a wheelchair or ensure safe evacuation of the person in the event of an emergency. This person may be admitted to a nursing facility to ensure his/her health, safety and welfare. If the nursing facility believes that the person has an intellectual/developmental disability or serious mental illness, then the facility must make a referral for a PASRR Level II Screen within seven (7) days unless the person is discharged within this time period.

Respite Care – Up to 7 days at a time for up to 30 days per year maximum. This short-term exemption is to be used for the benefit of providing relief to in-home caregivers to whom the person will be returning after a brief stay. As in the above exemptions, the individual needs to meet a required nursing care level for admission.

Respite care in a nursing home is not presently funded by Medicaid under the nursing facility benefit, however Medicaid Home and Community-Based Waiver funds (i.e., CIP 1A, CIP 1B, CIP II, and COP-W) or Family Care funds are permitted to be used to pay for respite care.

When to check the section “Level II Screen required.” For admissions of persons with intellectual/developmental disabilities and/or mental illness to nursing homes for other than the three short-term exemptions, a Level II Screen will need to be completed by the PASRR contractor prior to admission. In those situations, the nursing home or hospital will contact the contracted PASRR contractor. The PASRR contractor will in turn inform the county PASRR liaison ([identified in DMHSAS Memo 2015-04](#)) to notify them that a Level I Screen has been received so that any necessary planning at the county level can begin. In many cases, the nursing home will have already requested [F-20822](#) approval from the county prior to the county being contacted by the PASRR contractor. The overlap is due to the nursing home’s responsibility to meet separate, but overlapping PASRR requirements and Wisconsin nursing home administrative code requirements.

There will be situations when a second [F-20822](#) approval may be needed within a relatively short period of time. For example, if the person has been admitted under one of the three short-term exemptions and needs to stay for a longer period the county should complete another [F-20822](#) form if the county agrees with the longer nursing home stay. **It is permissible for the county staff to check both a box for a short-term exemption and a box for a long-term placement, which would eliminate the need to complete a second [F-20822](#).** In most cases, the PASRR contractor would need to be involved in the Level II Screening process for stays beyond the short-term exemption periods.

The separate category “Admission to a licensed nursing home that is not Medicaid certified” refers to the few Medicare/private pay only nursing homes in Wisconsin. Individuals entering those facilities do not require PASRR Level I or Level II Screens, but *do* require [F-20822](#) approval if they have an intellectual/developmental disability or mental illness.

Persons entering an ICF/IID (FDD) are not subject to PASRR, but *do* require [F-20822](#) approval. (A person transferring from an ICF/IID, including a distinct-part ICF/IID, to a Medicaid-certified nursing facility is subject to PASRR.)

Special Note Regarding Persons Who Have Had A Brain Injury:

If the brain injury occurred prior to the person's 22nd birthday, then a PASRR Level II Screen likely is required. Complete the [F-20822](#) form as instructed above. If the brain injury occurred *after* the person's 22nd birthday a PASRR Level II Screen is not required unless the person has an additional developmental disability and/or mental illness diagnosis, however a [F-20822](#) *is required*. The reason for the distinction is the fact that the Wisconsin statutory definition of developmental disability specifically includes brain injury regardless of age of onset. There is a separate option on the F-20822 form to identify a person whose brain injury occurred after his/her 22nd birthday and does not have an additional developmental disability or an accompanying mental illness. Such a person does not need a PASRR Level II Screen. However, if a person has a brain injury that occurred after his/her 22nd birthday and he/she had a pre-existing developmental disability or now has an accompanying mental illness, then he/she needs a PASRR Level II Screen.

Special Note Regarding Use for Out-of-State Circumstances:

The [F-20822](#) form should be completed for a person who currently is a resident of another state, not under guardianship or an involuntary commitment order, and voluntarily is choosing to permanently reside in Wisconsin and has stated an intent to do so. The county that will become the place of such a person's residence should be the county to complete the [F-20822](#) form. **If a person who is not a Wisconsin resident intends to return to their home that is not in Wisconsin after completing his/her recuperative care or is seeking admission to a Wisconsin facility because of the lack of available resources in their home state, then the facility or the county staff should contact Maura Klein for consultation in addressing residency, legal and payment issues.**

Definitions and requirements applicable to the [F-20822](#) form and PASRR process

Emphasis with underlined and bolded font was added to the state statutory and federal regulatory language to highlight the most pertinent information. The state statutory definitions are broader than the definitions used for PASRR, so a PASRR Level II Screen is not necessarily required for each person who requires the county approval to admit a person who has a mental illness or intellectual/developmental disability to a nursing home.

Wisconsin Statutes 51.01 Definitions. As used in this chapter, except where otherwise expressly provided: **(2g) (a) “Brain injury” means any injury to the brain, regardless of age at onset, whether mechanical or infectious in origin, including brain trauma, brain damage and traumatic head injury, the results of which are expected to continue indefinitely, which constitutes a substantial handicap to the individual, and which directly results in any 2 or more of the following:**

1. Attention impairment.
2. Cognition impairment.
3. Language impairment.
4. Memory impairment.
5. Conduct disorder.
6. Motor disorder.
7. Any other neurological dysfunction.

(am) “Brain injury” includes any injury to the brain under par. (a) that is vascular in origin if received by a person prior to his or her attaining the age of 22 years.

(b) “Brain injury” does not include alcoholism, Alzheimer's disease as specified under s. 46.87 (1) (a), or degenerative brain disorder, as defined in s. 55.01 (1v).

Wisconsin Statutes § 51.01 (5) (a) “Developmental disability” means a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader–Willi syndrome, intellectual disability, or another neurological condition closely related to an intellectual disability or requiring treatment similar to that required for individuals with an intellectual disability, which has continued or can be expected to continue indefinitely and constitutes a

substantial handicap to the afflicted individual. “Developmental disability” does not include dementia that is primarily caused by degenerative brain disorder.

(b) “Developmental disability”, for purposes of involuntary commitment, does not include cerebral palsy or epilepsy.

Wisconsin Statutes § 51.01 (13) (a) “Mental illness” means mental disease to such extent that a person so afflicted requires care and treatment for his or her own welfare, or the welfare of others, or of the community.

(b) “Mental illness”, for purposes of involuntary commitment, means a substantial disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, but does not include alcoholism.

Federal regulations at:

42 CFR 435.1010 Definitions relating to institutional status.

For purposes of FFP, the following definitions apply:

Persons with related conditions means individuals who have a severe, chronic disability that meets all of the following conditions:

(a) It is attributable to—

(1) Cerebral palsy or epilepsy; or

(2) Any other condition, other than mental illness, found to be closely related to Intellectual Disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons.

(b) It is manifested before the person reaches age 22.

(c) It is likely to continue indefinitely.

(d) It results in substantial functional limitations in three or more of the following areas of major life activity:

(1) Self-care.

(2) Understanding and use of language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

42 CFR 483.102 Applicability and definitions.

(a) This subpart applies to the screening or reviewing of all individuals with mental illness or intellectual disability who apply to or reside in Medicaid certified NFs regardless of the source of payment for the NF services, and regardless of the individual’s or resident’s known diagnoses.

42 CFR 483.128 PASARR evaluation criteria.

(a) *Level I: Identification of individuals with MI or IID.* The State’s PASARR program must identify all individuals who are suspected of having MI or IID as defined in § 483.102. This identification function is termed Level I. Level II is the function of evaluating and determining whether NF services and specialized services are needed. The State’s performance of the Level I identification function must provide at least, in the case of first time identifications, for the issuance of written notice to the individual or resident and his or her legal representative that the individual or resident is suspected of having MI or IID and is being referred to the State mental health or intellectual disability authority for Level II screening.

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CENTRAL OFFICE CONTACT:

Maura Klein

Bureau of Prevention, Treatment and Recovery

1 W. Wilson Street, Room 851

PO Box 7851

Madison, WI 53707-7851

(608) 266-7072

(608) 267-7793 (fax)

Maura.Klein@wisconsin.gov (e-mail)

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