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Replaces 2004-16, 18, and 19

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

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

Wisconsin Preadmission Screening and Resident Review (PASRR) process and requirements

This numbered memo updates and replaces the DDES - Numbered Memos #2004-16 dated February 9, 2005, #2004-18 dated February 2, 2005, and #2004-19 dated February 9, 2005. These memos detailed the Wisconsin policies and procedures for implementing the federal Preadmission Screening and Resident Review (PASRR) requirements, the contact information for the PASRR contract agency and list of the County PASRR Liaisons. This memo provides the following significant changes in policies or procedures:

- The abbreviation of Preadmission Screening and Resident Review has been changed from PASARR to PASRR.
- The short-term exemption of "30-day pending alternate placement" has been eliminated in the PASRR Level I form ([F-22191](#)). **Please begin using the revised PASRR Level I Screen now.**
- The consequences related to the PASRR determinations are delineated more clearly. Also, there is added language regarding the consequences of noncompliance with the federal PASRR regulations.
- Information on the appeal processes was clarified.
- No changes are made to the policies related to specialized services and specialized psychiatric rehabilitative services.
- The updated listing of county PASRR liaisons is provided in an attachment to this memo.

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PASRR REQUIREMENTS

Purpose: To ensure that individuals who have a mental illness or who have an intellectual/developmental disability (mental retardation):

- 1) Are placed in a nursing facility only when their needs:
 - a) Cannot be met in an appropriate community placement (note: there are many persons who may qualify for a Title 19 care level whose needs can be met in an appropriate community placement --- PASRR prohibits the admission or retention of such individuals in a nursing facility under circumstances described later); and
 - b) Do not require the specialized care and treatment of an inpatient psychiatric hospital or ICF/IID placement.
- 2) Receive appropriate treatment (specialized services) for their mental illness or developmental disability if their independent functioning is limited due to their disability.

Applicability: The federal PASRR statutes and regulations apply to all individuals who are seeking admission to a nursing facility and all residents of a nursing facility, irrespective of source of payment. The PASRR process only applies to Medicaid certified (Title 19) nursing facilities. PASRR does not apply to hospitals, Medicare certified only nursing facilities, DHS 132 licensed only nursing homes, ICFs/IID, or group homes (CBRFs and adult family homes). PASRR will apply to individuals who are seeking admission to a nursing facility, but currently reside in a group home, ICF/IID, etc.

Important Note: The PASRR regulations refer to an interfacility transfer as any situation in which a nursing home resident is transferred from one Medicaid certified nursing facility to another Medicaid certified nursing facility, with or without an intervening hospital stay (for any reason). A Pre-Admission Screening is not required for interfacility transfers; however, a resident review may be required at some time if the individual experienced a significant change of status related to PASRR, as explained later.

Basic PASRR Process: Any current or prospective nursing facility resident suspected of having a mental illness or a developmental disability, as noted by a correctly completed Level I screen (see attached copy) must be referred to the PASRR contractor for a Level II screen. The contractor will perform the Level II screen and make a determination about the appropriateness of nursing facility placement as well as the need for specialized services. Each individual who is identified through the Level I form as a person who is suspected of having a serious mental illness or a developmental disability continues to need a Pre-Admission Screening (Level II screen) before admission to a nursing facility, unless the individual qualifies for a short-term exemption for:

- 1) Post-hospitalization recuperative (medical, not psychiatric) care of 30 days or less;
- 2) Respite care to in-home caregivers who expect the person to return for up to 7 days, for a maximum of 30 days per year; or
- 3) Provisional admissions pending further assessment in emergency situations requiring protective services of 7 days or less.

Note: These short-term exemptions are to be based on a reasonable expectation that the admission would not exceed the permitted timeframe. For example, it is reasonable to expect that a 50-year old

individual, who fell and broke his/her hip, but is otherwise in good health, may need 30 days or less of recuperative care. On the other hand, an 85-year old individual who had diabetes, osteoporosis, osteoarthritis, etc. is likely to need more than 30 days recuperative care for a broken hip.

Beginning January 1, 1997, Wisconsin Medicaid-certified nursing facilities no longer need to have an annual resident review for any resident. Until the federal Centers for Medicare and Medicaid Services (CMS) promulgates new regulations implementing this change in the federal law as relayed in a future informational memorandum, Medicaid-certified nursing facilities must make a referral for a "change in status" review under the following situations:

- a) A client who is admitted under a permissible short-term exemption (e.g., for a post-hospitalization recuperative care stay for up to 30 days) and needs to stay longer beyond the timeframe for the permissible exemption must be referred for a Level II Screen on or before the last day of the permitted timeframe if any of the questions in Section A of the PASRR Level I Screen are checked "yes";
- b) If the responses to all questions # 1 - 5 in Section A of the Level I screen for a client at the time of his/her admission to a nursing facility are checked "no" but the response to one or more of these questions should have been "yes";
- c) A client whose medical/physical condition improves to a level to cause the nursing facility to suspect that the client's needs could be met in an appropriate community setting, as described in the PASRR regulations and preamble, must have a resident review;
- d) A client who previously received a PASRR review and was found to need specialized services must receive a resident review if his/her level of independent functioning improves such that he/she no longer requires continuous and aggressive treatments and services to address limitations in independent functioning caused by the client's mental illness or developmental disability;
- e) A client whose independent functioning now is significantly limited as a result of a mental illness or developmental disability, but previously was not significantly limited must receive a resident review; or
- f) A client who previously received a PASRR review and was found to need specialized services must receive a resident review if his/her level of independent functioning declines due to a marked and permanent deterioration in his/her cognitive functioning due to dementia or health status such that he/she is unable to participate or benefit from specialized services.

Note: The state and federal nursing home regulations require that the facility update the client's MDS and care plan to reflect the change in condition. Nothing in the nursing facility regulations implies that the facility should wait for the results of a new Level II screen before updating the client's care plan.

The department's PASRR contractor is:

Behavioral Consulting Services, Inc.
1533 Wisconsin Avenue
Grafton, WI 53024
(262) 376-1224
(262) 376-0928 or (262) 376-0948 (both are fax numbers)

The PASRR contractor is required to complete preadmission screens within eight working days. The PASRR contractor is required to complete the "change in status" resident review no later than 30 calendar days after the date of referral. The PASRR Contract Administrator will give an extension of these time limits to the contractors when there is reasonable cause.

Specialized services for persons who have an intellectual/developmental disability: The federal PASRR definition of specialized services (SS) for persons who have a developmental disability is unambiguous by cross-referencing to the intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) requirement for active treatment. Wisconsin Administrative Code DHS 132.695 provides specific requirements for nursing

facilities to meet regarding active treatment for persons who have a developmental disability. The following requirement in the ICF/IID regulations provides the standard/definition for active treatment

42 CFR 483.440 Condition of participation: Active treatment services.

(a) *Standard: Active treatment.* (1) Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services described in this subpart, that is directed toward —

(i) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(ii) The prevention or deceleration of regression or loss of current optimal functional status.

(2) Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

Specialized services and specialized psychiatric rehabilitative services for persons who have a serious mental illness:

1. The term “specialized services” for persons who have a serious mental illness means that the person requires inpatient psychiatric hospitalization because he/she requires treatments or interventions that are not permitted under the federal nursing facility regulations, such as restraint or seclusion to manage behavioral crises.
2. The term “specialized psychiatric rehabilitation services” (SPRS) means that the services determined by the comprehensive assessment and the (SPRS) care plan necessary to prevent avoidable physical and mental deterioration and to assist clients in obtaining or maintaining their highest practicable level of functional and psycho-social wellbeing. SPRS shall include:
 - a) The client’s regular participation, in accordance with their SPRS care plan, in professionally developed and supervised activities, experiences and therapies; and
 - b) Activities, experiences and therapies that reduce the resident’s psychiatric and behavioral symptoms, improve the level of independent functioning, and achieve a functional level that permits reduction in the need for intensive mental health services.

Currently, some nursing facilities categorically refuse to admit any person who requires specialized services, which is permitted under federal Medicaid regulations because the state, not a nursing facility, is responsible for the provision of specialized services. However, the federal PASRR regulations at 42 CFR 483.120 (c) identify the nursing facility as responsible for providing “services of a lesser intensity” or SPRS. **A nursing facility is permitted to refuse to admit or involuntarily relocate an individual whose needs cannot be met by the nursing facility, but this must be done based on an assessment of the individual’s needs and an assessment of the facility’s capacity (i.e., knowledge, skills, and resources) to meet the individual’s needs.**

If you have questions about SS or SPRS, reimbursement for providing SS or specialized psychiatric rehabilitation services, or need technical assistance (limited) contact Maura Klein, the PASRR Contract Administrator (see page one for contact information).

Consequences of the PASRR determinations: The federal PASRR regulations at 42 CFR 483.118 provide for the following possibilities regarding nursing facility admission:

- a) The individual cannot be admitted to a nursing facility because it was determined that the individual’s needs can be met in an appropriate community setting or the individual requires an alternate institutional setting (i.e., inpatient psychiatric hospital or intermediate care facility for individuals with intellectual disabilities).
- b) If the individual has resided continuously in one or more nursing facilities for at least 2½ years before the completion of the Level II Screen and it was determined that the individual’s needs could be met in an appropriate community setting and that the individual needs SS, then the individual (or his/her legal representative) may choose to remain in a nursing facility as permitted by the federal PASRR regulations. As a pragmatic issue, this provision only applies to individuals with intellectual disabilities.

- c) The individual may choose to be admitted or remain in a nursing facility, because it was decided that the individual needs the availability of licensed nursing staff 24 hours a day for the foreseeable future. The individual also may choose to receive treatment services and supports in a community setting with Medicaid funding via a home and community-based waiver or a Medicaid managed care program (e.g., Family Care).

Consequences of noncompliance with the PASRR requirements: In addition to the possibility of a statement of deficiency issued by surveyors related to the nursing facility requirement at 42 CFR 483.20 (m), the federal PASRR regulations provide for the following fiscal consequences [emphasis added with underlined font]”

§ 483.122 FFP for NF services.

(a) *Basic rule.* Except as otherwise may be provided in an alternative disposition plan adopted under section 1919(e)(7)(E) of the Act, FFP is available in State expenditures for NF services provided to a Medicaid eligible individual subject to the requirements of this part only if the individual has been determined—

(1) To need NF care under § 483.116(a) or

(2) Not to need NF services but to need SS, meets the requirements of § 483.118(c)(1), and elects to stay in the NF.

(b) *FFP for late reviews.* When a preadmission screening has not been performed prior to admission or an annual review is not performed timely, in accordance with § 483.114(c), but either is performed at a later date, FFP is available only for services furnished after the screening or review has been performed, subject to the provisions of paragraph (a) of this section.

Appeal process for a PASRR Level I Screen: There is no appeal process for a PASRR Level I Screen that indicates a need for a Level II Screen. The federal regulations at 42 CFR 483.128 state [emphasis added with underlined font]:

(a) *Level I: Identification of individuals with MI or IID.* The State’s PASRR 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 SS 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.

Note: Wisconsin’s PASRR policies require the nursing facility or hospital that completes the PASRR Level I Screen to notify the individual or his/her legal representative if a referral for a Level II Screening has been made. The requirement for this process to be in writing may be accomplished by providing the individual or his/her legal representative a copy of the PASRR Level I Screen.

Appeal process for a PASRR Level II Screen: Only the individual (the subject of the PASRR Level II Screen) or his/her legal representative has standing to file an appeal of a PASRR Level II Screen determination.

If the PASRR Level II Screen determination indicates that the individual’s needs could be met in an appropriate community setting and an appeal is filed in a timely manner (i.e., within 10 calendar days of the individual’s or legal representative’s receipt of the Evaluation Summary and Notice of Appeal Rights), then 42 CFR 483.138 permits Medicaid payment to continue for the nursing facility benefit during the appeal process. If the appeal is not filed within 10 calendar days of the receipt of the Evaluation Summary and Notice of Appeal Rights, but is filed within 45 calendar days of the receipt, then Medicaid reimbursement for the nursing facility benefit is only available:

1. For 30 days, but only if the nursing facility mails a 30 day notice of its intent to transfer or discharge a resident, under § 483.12(a); or
2. If as a result of the appeal, the administrative law judge overturns the PASRR determination or the PASRR contractor and/or PASRR Contract Administrator update the PASRR determination.

If the PASRR Level II Screen determination indicates that the individual needs SS or SPRS, then the nursing facility must address the individual's needs as identified in the PASRR Level II Screen, which is to say that the facility must provide SS or SPRS if the individual is admitted or retained by the facility. As stated earlier in the section dealing with SS and SPRS, there generally is no basis for an involuntary discharge simply due to the PASRR Level II Screen determination.

If an individual or his/her legal representative would like to file an appeal, a letter should be written to the Division of Hearings and Appeals, PO Box 7875, Madison, WI 53707-7875. The fax number for the Division of Hearings and Appeals is 608-264-9885; it is advisable to fax the appeal letter because it is faster, cheaper, and your transmittal report confirms that the fax was received with the date and time. The content of the letter should include:

1. A statement of who is filing the appeal and which of the PASRR Level II determinations is being contested (e.g., "On behalf of my ward, _____, I am appealing the PASRR determination that indicates he/she does not need nursing facility placement.").
2. A statement of the desired outcome (e.g., "I am filing this appeal so the nursing facility and I have additional time to arrange a safe and orderly discharge.").
3. The individual's social security number.
4. If desired, a statement authorizing another person (e.g., the nursing facility social worker) to help represent the individual or his/her legal representative in the appeal process.
5. The address of the individual or his/her legal representative, as well as work and home phone numbers. If another person is being authorized to assist in the appeal process, then this person's address and phone numbers also are to be included.

Other nursing home admission requirements pertinent for persons who have a mental illness or an intellectual/developmental disability

Issues related to the county review and approval to admit persons who have a mental illness or developmental disability via the [F-20822](#) form are dealt with in a separate numbered memo.

For persons who are incapacitated and who have an activated power of attorney for health care document, Wisconsin Statutes § 155.20 (2) (c) does not permit the health care agent to admit the principal for more than 3 months of post-hospital recuperative care if the principal has a mental illness or developmental disability at the time of the proposed admission. Similar limitations exist when using the provisions permitted under Wisconsin Statutes § 50.06 (2). In such circumstances, the state statutes require a guardianship and protective placement order prior to the admission to a nursing facility on a long-term basis. To address a situation in which an individual's health, safety, and welfare may be at risk if he/she is not immediately admitted to a nursing facility, these issues may be resolved with temporary guardianship and emergency protective placement. Wisconsin Statutes § 55.055 (1) do permit a guardian to admit a ward to a nursing home on a short-term basis under the following conditions:

- (a) The guardian of an individual who has been adjudicated incompetent may consent to the individual's admission to a foster home, group home, or community-based residential facility, as defined under s. 50.01 (1g), without a protective placement order under s. 55.12 if the home or facility is licensed for fewer than 16 beds. Prior to providing that consent, and annually thereafter, the guardian shall review the ward's right to the least restrictive residential environment and may consent only to admission to a home or facility that implements that right.
- (b) The guardian of an individual who has been adjudicated incompetent may consent to the individual's admission to a nursing home or other facility not specified in par. (a) for which protective placement is otherwise required for a period not to exceed 60 days. In order to be admitted under this paragraph, the individual must be in need of recuperative care or be unable to provide for his or her own care or safety so as to create a serious risk of substantial harm to himself or herself or others. Prior to providing that consent, the

guardian shall review the ward's right to the least restrictive residential environment and consent only to admission to a nursing home or other facility that implements that right. Following the 60-day period, the admission may be extended for an additional 60 days if a petition for protective placement under s. 55.075 has been brought, or, if no petition for protective placement under s. 55.075 has been brought, for an additional 30 days for the purpose of allowing the initiation of discharge planning for the individual. Admission under this paragraph is not permitted for an individual for whom the primary purpose of admission is for treatment or services related to the individual's mental illness or developmental disability.

If you have questions about the PASRR process, the [F-20822](#) form and related issues for non-State residents, or if you have questions regarding or disagree with the Level II determinations, contact:

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Attachment: County PASRR Liaisons