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MEMORANDUM

TO: Emily McClellan
Regulatory Supervisor
Department of Medical Assistance Services

FROM: Davis Creef
Assistant Attorney General
Office of the Attorney General

DATE: May 24, 2021

SUBJECT: Preadmission Screening and Resident Review (PASRR) Update

I have reviewed the attached emergency regulations regarding the Preadmission Screening and Resident Review (PASRR) updates. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services (“DMAS”) has the legal authority to amend the regulations and if the regulations comport with state and federal law.

The changes in these regulations reflect changes required to conform with newly amended provisions of the Code of Virginia. Further, pursuant to the General Assembly’s direction, DMAS is required to promulgate these regulations to be effective within 280 days of enactment of the corresponding legislation. Based on my review, it is my view that the Director of DMAS, acting on behalf of the Board of Medical Assistance Services, under Virginia Code §§ 32.1-324 and 325, has the authority to amend these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act (“APA”) and has not exceeded that authority. Based on the foregoing, it is my view that the amendments to these regulations are supported by emergency authority pursuant to Virginia Code § 2.2-4011(B).

Please note that Virginia Code § 2.2-4011(C) requires that all emergency regulations be limited to no more than 18 months in duration. If you have any questions or need additional information about these regulations, please contact me at (804)786-6522.

cc: Kim F. Piner, Esq.

Attachment

Emergency Text

[highlight](#)

Action: Preadmission Screening and Resident Review (PASRR) Update

Stage: Emergency

4/28/21 6:45 PM [latest]



12VAC30-130-140 Definitions

"Community Services Board (CSB)" means the local governmental agency responsible for local mental health, ~~mental retardation~~ intellectual disability, and substance abuse services. Boards function as service providers, client advocates, and community educators.

"Dementia" means, as a major neurocognitive disorder, for the purposes described herein, having a primary diagnosis of dementia, as described in the Diagnostic and Statistical Manual of Mental Disorders, ~~3rd~~ 5th edition, ~~revised in 1987~~, or a nonprimary diagnosis of dementia unless the primary diagnosis is a major mental disorder as defined herein.

"Diagnostic and Statistical Manual of Mental Disorders (DSM), ~~3rd~~ 5th edition" means the ~~1987~~ 2013 publication of the American Psychiatric Association ~~classifying diagnoses of abnormal behavior for identifying and classifying mental disorders using common language and standard criteria.~~

"Interfacility transfer" means when an individual is transferred from one nursing facility (NF) to another ~~nursing facility~~ NF, with or without an intervening hospital stay. ~~Interfacility transfers are subject to annual resident review rather than preadmission screening.~~ In cases of transfer of a resident with MI or ~~MR~~ ID or a related condition (~~MR~~ID/RC) from a NF to a hospital or to another NF, the transferring NF is responsible for ensuring that copies of the resident's most recent preadmission screening and annual resident review (~~PASARR~~PASRR) and resident assessment reports shall accompany the transferring resident.

"Intellectual disability (ID)" – means the individual has a disability, with onset before age 18, which is characterized by significant limitations in both intellectual functioning and adaptive behavior, as described in the American Association on Intellectual and Developmental Disabilities' "Intellectual Disability: Definition, Classification, and Systems of Support, 11th edition" (2010). A person with related conditions (RC) means the individual has a severe chronic disability that meets all of the following conditions:

1. It is attributable to:

a. Cerebral palsy or epilepsy; or

b. Any other condition, other than mental illness, found to be closely related to ID because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of people with intellectual disabilities, and requires treatment or services similar to those required for these persons.

2. It is manifested before the person reaches age 22;

3. It is likely to continue indefinitely; and

4. It results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

"Level I screening or identification" means the process performed to identify ~~nursing facility~~ NF applicants with a condition of mental illness or mental retardation.

"Level II evaluation and determination" means the evaluation and determination process for ~~nursing facility~~ NF applicants who are identified as having a condition of mental illness, ~~or mental retardation~~ ID or related condition as defined herein. The purpose of the Level II evaluation is to ~~recommend placement of and services to nursing facility applicants with statutorily defined mental illness or mental retardation~~ confirm the existence of MI, ID or RC and determine whether specialized services are needed and, if specialized services are needed, whether NF admission is the least restrictive environment and appropriate setting for receiving services.

"Long-Term Services and Supports (LTSS) Screening Team" means the hospital screening team, community-based team (CBT), nursing facility LTSS team, or DMAS designee contracted to perform screenings pursuant to § 32.1-330 of the Code of Virginia.

"Mental Illness (MI)" means ~~a serious~~ mental illness meeting all of the following requirements:

1. The individual has ~~a major mental disorder diagnosable under~~ within the past year, had a serious and persistent mental disorder meeting the criteria specified within the Diagnostic and Statistical Manual of Mental Disorders, 3rd 5th edition, revised in 1987 that is a schizophrenic, mood, paranoid, panic, or other severe anxiety disorder; somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder that may lead to a chronic disability. The disorder is not a primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia unless the primary diagnosis is a major mental disorder as defined here that is not secondary to dementia;

2. The ~~disorder results in functional limitations in major life activities within the past three to six months that would be appropriate for the individual's developmental stage. An individual typically has at least one of the following characteristics on a continuing or intermittent basis:~~ condition has been determined by a qualified clinician to be acute or in partial remission, have recurrent or persistent features and, if the DSM includes a severity scale for the disorder, the severity level of the disorder is moderate to severe;

~~a. Interpersonal functioning. The individual has serious difficulty interacting appropriately and communicating effectively with other persons, has a possible history of altercations, evictions, firing, fear of strangers, avoidance of interpersonal relationships, and social isolation;~~

~~b. Concentration, persistence, and pace. The individual has serious difficulty in sustaining focused attention for a long enough period to permit the completion of tasks commonly found in work settings or in work-like structures, activities occurring in school or home settings, manifests difficulties in concentration, inability to complete simple tasks within an established time period, makes frequent errors, or requires assistance in the completion of these tasks; and~~

~~c. Adaptation to change. The individual has serious difficulty in adapting to typical changes in circumstances associated with work, school, family, or social interaction, manifests agitation, exacerbated signs and symptoms associated with~~

~~the illness, or withdrawal from the situation, or requires intervention by the mental health or judicial system.~~

3. ~~The treatment history indicates that the individual has experienced at least one of the following:~~ disorder results in functional impairment which has substantially interfered with, or limited, one or more major life activity (including activities of daily living; instrumental activities of daily living; or functioning in social, family, and academic or vocational contexts), or would have caused functional impairment without the benefit of treatment or other support services; and

4. A qualified clinician has found that the mental illness is not a secondary characteristic of a primary diagnosis of dementia (or neurocognitive disorder due to Alzheimer's disease or related conditions).

~~a. Psychiatric treatment more intensive than outpatient care more than once in the past two years (e.g., partial hospitalization or inpatient hospitalization); or~~

~~b. Within the last two years, due to the mental disorder, experienced an episode of significant disruption to the normal living situation, for which supportive services were required to maintain functioning at home, or in a residential treatment environment, or which resulted in intervention by housing or law enforcement officials.~~

~~"Mental Retardation (MR)" means the presence of a level of retardation (mild, moderate, severe, or profound) described in the American Association on Mental Retardation's Manual on Classification in Mental Retardation (1983) or has a related condition. A person with related conditions (RC) means the individual has a severe chronic disability that meets all of the following conditions:~~

~~1. It is attributable to cerebral palsy or epilepsy or any other condition, other than mental illness, found to be closely related to mental retardation because this condition may result 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;~~

~~2. It is manifested before the person reaches age 22;~~

~~3. It is likely to continue indefinitely; and~~

~~4. It results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.~~

"MI/~~MR~~ID Supplement" means the assessment form developed to meet the requirements of OBRA '87. Its purpose is to identify individuals with mental illness and ~~mental retardation~~ ID before their admission to a nursing facility.

"New admission" means an individual who is admitted to any nursing facility for the first time or does not qualify as a readmission. New admissions ~~are subject to~~ shall receive preadmission screening.

~~"Non-Medicaid-eligible Individuals" means persons who are not Medicaid-eligible or are not expected to be Medicaid-eligible within 180 days of admission to a nursing facility.~~

~~"Nursing Home Preadmission Screening Committee (NHPASC)" means a committee established for the purpose of determining whether a Medicaid-eligible individual meets nursing facility criteria.~~

"Qualified Mental Health Professional (QMHP)" means a clinician in the health profession who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis. In the Commonwealth, authorized professionals and minimal qualifications for a QMHP are as follows:

1. Physician: a doctor of medicine or osteopathy licensed in Virginia;
2. Psychiatrist: a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia;
3. Psychologist: an individual with a master's degree in psychology from an accredited college or university with at least one year of clinical experience;
4. Social worker: an individual with a master's or bachelor's degree from a school of social work accredited or approved by the Council on Social Work Education with at least one year of clinical experience;
5. Registered nurse: a registered nurse licensed in the State of Virginia with at least one year of clinical experience; and
6. Mental health worker: an individual with professional education, training, and/or a degree in human services or related field from an accredited college deemed equivalent to those described above and at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness.

QMHPs who hold a certification per the Department of Health Professions (DHP) Board of Counseling differs in Regulatory and Scope of Practice as indicated in the Code of Virginia Title of Regulations: 18 VAC 115-80-10 et seq. QMHPs holding a certification through the DHP must adhere to the regulations put forth by the Virginia Board of Counseling and perform duties within their scope of practice. Clinicians and/or licensed professionals must perform duties within their scope of practice as indicated through their licensing/credentialing board.

"Readmission" means an individual who was readmitted to a facility from a hospital to which he or she was transferred for the purpose of receiving care. Readmission includes being admitted to another NF after a hospital admission. If an individual received a Level I screening and, if needed, Level II evaluation and determination at the initial NF admission, a new preadmission screening is not required. Readmissions are subject to annual resident review rather than preadmission screening.

"State Mental Health Authority or Mental Retardation ID Authority (MH/MRAS/MHA/SIDA)" means the designated representative of the Department of Mental Health, Mental Retardation and Substance Abuse Services Behavioral Health and Developmental Services who shall make determinations regarding placement of and services to nursing facility applicants who have conditions of mental illness or mental retardation ID.

12VAC30-130-150 Persons subject to nursing home preadmission screening and identification of conditions of mental illness and mental retardation Intellectual Disability, or Related Conditions (Level I)

A. As a condition of a nursing facility's Medicaid participation, all persons, regardless of financial status, applying for admission to a Medicaid-certified NF shall be screened to determine whether they have a condition of mental illness (MI) or mental retardation (MR) intellectual disability (ID) or a related condition (RC), and if so, whether they require the level of services provided by a nursing facility (NF). Nursing facilities shall ensure that applicants for admission have been

screened and those who are identified as being MI or ~~MRID/RC~~ are not admitted until determinations have been made by the State Mental Health or ~~Mental Retardation~~ State Intellectual Disability Authority (~~MH/MHASMHA/SIDA~~) with respect to their placement and specialty services. ~~NHPASGs~~ LTSS screening teams complete the Level I process for individuals ~~who are Medicaid-eligible or expect to become Medicaid-eligible within 180 days~~ participating in the Medicaid LTSS screening process and will refer for Level II evaluation and determination as needed. Nursing facilities are responsible for screening all other individuals who are seeking admission to a Medicaid-certified NF. Nursing facilities must ensure that the appropriate screenings are conducted ~~for non-Medicaid-eligible applicants~~ prior to admitting an individual to a Medicaid certified NF.

B. No individual, regardless of pay status, may be admitted to a ~~nursing facility~~ NF unless the Level I screening has been completed, and, if it is determined that the individual has a condition of MI or ~~MRID/RC~~ as defined herein, then he or she shall not be admitted until the Level II evaluation and determination has been made.

C. The Level I identification function shall 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 if the individual is suspected of having MI or ~~MRID/RC~~ and is being referred to the ~~MH/MRAS~~ SMHA/SIDA for Level II ~~screening~~ determination. The ~~NHPASC~~ LTSS screening team shall send this notice to ~~Medicaid-eligible~~ individuals who participate in the Medicaid LTSS screening process who are referred for a Level II ~~screening~~ evaluation. The admitting NF shall send the notice to ~~non-Medicaid~~ all other individuals.

D. All Level I and Level II determinations shall be recorded in the individual's medical record.

E. When a preadmission screening has not been performed ~~timely~~ prior to NF admission, but is performed at a later date, federal financial participation (FFP) is available only for services furnished after the screening has been performed.

F. The state in which the individual is a resident (or will be at the time he or she becomes eligible for Medicaid) must pay for the ~~PASARR~~ PASRR process and make the required determinations. In the case of non-Medicaid eligible applicants, the receiving NF is responsible to ensure that the appropriate screenings have been completed prior to the individual's admission.

12VAC30-130-160 Level II determination

A. For each resident of a NF who has a condition of MI or ~~MRID/RC~~, the ~~MH/MRAS~~ SMHA/SIDA, as appropriate, must determine whether the individual requires the level of services provided by a NF, an inpatient psychiatric hospital for individuals under age 21, an institution for mental disease (IMD) providing medical assistance to individuals age 65 and older, an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled (~~IGF/MRICF/IID~~), or specialized services for either MI ~~or MRID/~~, or RC.

B. When a Level II evaluation is required, a determination shall be made within an annual average of ~~seven to~~ nine working days of the Level I referral for screening evaluation and determination. The ~~MH/MRAS~~ SMHA/SIDA shall convey determinations verbally to ~~NFs~~ Level I screener, and the individual and confirm them in writing.

C. The ~~MH/MRAS~~ SMHA/SIDA shall notify in writing the following entities of a Level II determination:

1. The evaluated individual and his or her legal representative;
2. The admitting or retaining NF;
3. The ~~individual or~~ resident's attending physician; and
4. The discharging hospital or Level I screening entity.

D. Each notice described above shall include the following:

1. Whether a NF level of services is needed;
2. Whether specialized services are needed;
3. The placement options available to the individual consistent with the determination; and
4. The rights of the individual to appeal the determination.

12VAC30-130-170 Categorical determinations

A. For each individual for whom the Level I screening has resulted in the determination that the individual meets ~~nursing facility~~ NF level of care and has a condition of MI ~~or MR/~~, ID or RC as defined herein, a Level II evaluation does not have to be completed if one of the following categorical determinations are met:

1. The individual has a terminal illness in which a physician has documented that life expectancy is less than six months; or
2. The individual has a severe illness such as coma, functioning at brain stem level, or other conditions which result in a level of impairment so severe that the individual could not be expected to benefit from specialized services. When this category is used, documentation shall be available which fully describes the severity of the condition.

B. These categorical determinations shall only be applied following the Level I review and only if existing data on the individual appear to be current and accurate and are sufficient to allow the evaluator readily to determine that the individual fits the category.

12VAC30-130-180 Annual resident review

A. A review and determination must be conducted for each resident of a NF who has MI, ~~or MR/RC not less often than annually. "Annually" is defined as occurring within every fourth quarter after the previous preadmission screening or annual resident review~~ ID or RC upon change in the resident's condition.

~~B. When an annual resident review has not been performed timely, but is performed at a later date, federal financial participation (FFP) is available only for services furnished after the review has been performed~~ A review must be conducted promptly after a NF has notified the SMHA/SIDA that there has been a significant change in the resident's physical or mental condition.

12VAC30-130-190 Determinations and placement of individuals with ~~MI or MR/RC~~ MI, ID, or RC

A. If the ~~MH/MRA~~ SMHA/SIDA determines that a resident or applicant for admission to a NF requires a NF level of services, the NF may admit or ~~retain~~ enroll the individual. If the ~~MH/MRA~~ SMHA/SIDA determines that a resident or applicant for admission requires both a NF level of services and specialized services for MI ~~or MR/~~, ID or RC, the NF may admit or retain the individual and the state must provide or arrange for the provision of the specialized services needed by the individual while he resides in the NF.

B. If the ~~MH/MRA~~SMHA/SIDA determines that an applicant for admission to a NF does not require NF services, the applicant cannot be admitted. NF services are not a covered Medicaid service for that individual, and further screening is not required.

C. If the ~~MH/MRA~~SMHA/SIDA determines that a resident requires neither the level of services by a NF nor specialized services for MI ~~or MR/~~ID or RC, regardless of the length of stay in the facility, the state must (i) arrange for the safe and orderly discharge of the resident from the facility; and (ii) prepare and orient the resident for discharge.

D. For any resident who has continuously resided in a NF for at least 30 months before the date of the determination, and who requires only specialized services, the state must, in consultation with the resident's family or legal representative and caregivers (i) offer the resident the choice of remaining in the facility or of receiving services in an alternative appropriate setting; (ii) inform the resident of the institutional and noninstitutional alternatives available; (iii) clarify the effect on eligibility for Medicaid services if the resident chooses to leave the facility, including its effect on readmission to the facility or eligibility for community-based services; and (iv) regardless of the resident's choice to remain in the NF or to be discharged to a community setting, provide for, or arrange for the provision of specialized services for the MI ~~or MR~~, ID, or RC.

E. For any resident who has not continuously resided in a NF for at least 30 months before the date of the determination, the state must, in consultation with the resident's family or legal representative and caregivers (i) arrange for the safe and orderly discharge of the resident from the facility; (ii) prepare and orient the resident for discharge; and (iii) provide for, or arrange for the provision of, specialized services for the MI ~~or MR~~, ID, or RC.

F. For the purposes of establishing length of stay in a NF, the 30 months of continuous residence in a NF or longer is calculated back from the date of the first annual resident review determination which finds that the individual is not in need of NF level of services. The 30 months of continuous residence in a NF may include temporary absences for hospitalization ~~and or~~ therapeutic leave and may consist of consecutive residences in more than one NF.

G. Placement of an individual with MI ~~or MR/~~ID or RC in a NF may be considered appropriate only when the individual's needs are such that he or she meets the minimum standards for admission and his or her needs for treatment do not exceed the level of services which can be delivered in the NF to which the individual is admitted either through NF services alone or, where necessary, through NF services supplemented by specialized services provided by or arranged for by the state.

12VAC30-130-200 ~~PASARR~~ PASRR evaluation criteria

A. The state's ~~PASARR~~ PASRR program must identify all individuals who are suspected of having MI ~~or MR/~~ID or RC as defined herein. The identification function ~~and determination that NF criteria is met~~ is termed Level I. Level II is the function of evaluating and determining whether NF ~~placement is appropriate to meet the individual's MH/MR/RC needs and whether~~ level of services ~~and~~ specialized services are needed.

B. Evaluations performed under ~~PASARR~~ PASRR and ~~PASARR~~ PASRR notices must be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated. ~~PASARR~~ PASRR evaluations must involve the individual being

evaluated, the individual's legal representative, if one has been designated under state law, and the individual's family if available and the individual or the legal representative agrees to family participation. When parts of a ~~PASARR~~ PASRR evaluation are performed by more than one evaluator, there must be interdisciplinary coordination among the evaluators.

C. All information that is necessary for determining whether it is appropriate for the individual with MI ~~or MR/~~ ID or RC to be placed in a NF or in another appropriate setting should be gathered throughout all applicable portions of the ~~PASARR~~ PASRR evaluation. The determinations relating to the need for NF level of care and specialized services are interrelated and must be based upon a comprehensive analysis of all data concerning the individual.

D. Evaluators may use relevant evaluative data, obtained prior to initiation of preadmission screening or ~~annual~~ resident review, if the data are considered valid and accurate and reflect the current functional status of the individual. However, in the case of individualized evaluations, the ~~PASARR~~ PASRR program may need to gather additional information to supplement and verify the currency and accuracy of existing data and to assess proper placement and treatment.

E. For individualized ~~PASARR~~ PASRR determinations, findings must be issued in the form of a written evaluative report which (i) identifies the name and professional title of person(s) who performed the evaluation(s) and the date on which each portion of the evaluation was administered; (ii) provides a summary of the medical and social history, including the positive traits or developmental strengths and weaknesses or developmental needs of the evaluated individual; (iii) if NF services are recommended, identifies the specific services which are required to meet the evaluated individual's needs; (iv) if specialized services are not recommended, identifies any specific ~~MR~~ ID/RC or MH services which are of a lesser intensity than specialized services that are required to meet the evaluated individual's needs; (v) if specialized services are recommended, identifies the specific ~~MR~~ ID/RC or MH services required to meet the evaluated individual's needs; and (vi) includes the basis for the report's conclusions.

F. For categorical ~~PASARR~~ PASRR determinations, findings must be issued in the form of an abbreviated written evaluative report which (i) identifies the name and professional title of the person applying the categorical determination and the data on which the application was made; (ii) explains the categorical determination(s) that has (have) been made; (iii) identifies, to the extent possible, based on the available data, NF services, including any mental health or specialized psychiatric rehabilitative services, that may be needed; and (iv) includes the bases for the report's conclusions.

G. For both categorical and individualized determinations, findings of the evaluation must correspond to the person's current functional status, mental health, and ~~mental-retardation~~ ID status as documented in medical and social history records. Findings of the evaluation must be interpreted and explained to the individual and, where applicable, to a legal representative designed under state law by the assessment team or the MH/~~MRA~~ IDA. The evaluation report must be sent to the individual and his legal representative, appropriate state authority in sufficient time to meet the required time frames, admitting or retaining NF, individual's attending physician, and the discharging hospital if the individual is seeking NF admission from a hospital. The determination decision must be provided to the Level I screener in a format enabling electronic entry and tracking of the results. The evaluation may be terminated at any time during the evaluation that the individual being evaluated does not have MI or ~~MR~~ ID/RC or has a primary

diagnosis of dementia (including Alzheimer's Disease or a related disorder) or a nonprimary diagnosis of dementia without a primary diagnosis that is a serious mental illness, and does not have a diagnosis of **MRID** or a related condition.

12VAC30-130-210 Specialized services

A. For mental illness, specialized services means the services specified by the state which, combined with services provided by the NF, results in the continuous and aggressive implementation of an individualized plan of care that:

1. Is developed and supervised by an interdisciplinary team which includes a physician, qualified mental health professionals, and as appropriate, other professionals;
2. Prescribes specific therapies and activities for the treatment of persons experiencing an acute episode of serious mental illness which necessitates supervision by trained mental health personnel;
3. Is directed toward diagnosing and reducing the resident's behavioral symptoms that may necessitate institutionalization, improving his or her level of independent functioning, and achieving a functioning level that permits reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time; and
4. Prescribes inpatient psychiatric services for any individual determined to be a danger to self or others. For **nursing facility NF** residents who are determined to be a danger to self or others due to mental illness, the **nursing facility NF** must coordinate admission to an inpatient psychiatric hospital.

B. For **mental retardation ID** or related conditions, specialized services means the services specified by the state which, combined with services provided by the NF or other service providers, results in treatment which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services that is directed toward the following;

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

C. The state must provide or arrange for the provision of specialized services to all NF residents with MI or **MRID/RC** whose needs are such that continuous supervision, treatment, and training by qualified MH/**MRID** personnel is necessary as identified by their Level I and II assessments. The NF must provide MH or **MRID/RC** services which are of a lesser intensity than specialized services to all residents who need such services.

1. Services that shall be the responsibility of the **nursing facility NF** to provide to residents shall include, but are not limited to:

- a. Physical therapy
- b. Speech-language pathology services
- c. Occupational therapy
- d. Restorative nursing

- e. Behavior management interventions that do not require ongoing consultation and monitoring by a licensed psychiatrist or psychologist
 - f. Basic grooming and hygiene needs
 - g. Nutritional needs, including supplements and assistance with eating
 - h. Adjustment needs resulting from admission to a ~~nursing facility~~ NF and ongoing psychosocial emotional support
 - i. Noncustomized durable medical equipment and supplies
2. Specialized services for the purposes of ~~PASARR~~ PASRR shall include the following. The ~~State Mental Health~~ SMHA or ~~Mental Retardation Authority~~ SIDA shall ensure the provision of specialized services when they are provided by a non-Medicaid-enrolled provider or when the services are not covered by Medicaid.
- a. Partial hospitalization
 - b. Transportation to Medicaid-covered services or specialized services necessary to treat conditions of mental illness or ~~mental retardation~~ ID
 - c. Day health and rehabilitation
 - d. Psychosocial rehabilitation
 - e. Crisis intervention
 - f. Customized durable medical equipment, for residents without a patient ~~pay, that pay that~~ would allow the resident to participate in specialized services
 - g. Behavior management interventions requiring ongoing consultation and monitoring by a licensed psychiatrist or psychologist
 - h. One-to-one supervision necessary for behavior management
 - i. Vision and hearing needs related to mental illness or ~~mental retardation~~ ID for persons over age 21
 - j. Dental needs resulting from mental illness or ~~mental retardation~~ ID sequela for persons over age 21
 - k. Habilitation
 - l. Supported employment for persons with mental illness or ~~mental retardation~~ ID
 - m. Case management services
 - n. Individual psychotherapy
 - o. Day treatment
 - p. Individual and group counseling
 - q. Inpatient psychiatric care

12VAC30-130-220 Placement options

A. The placement options and required state actions resulting from ~~PASARR~~ PASRR are as follows:

- 1. Can be admitted to a NF. Any applicant for admission to a NF who has MI or ~~MR~~ ID/RC and who requires the level of services provided by a NF, regardless

of whether specialized services are also needed, may be admitted to a NF, if the placement is appropriate. If specialized services are also needed, the state is responsible for providing or arranging for the provision of the specialized services.

2. Cannot be admitted to a NF. Any applicant for admission to a NF who has MI or **MRID/RC** and who does not require the level of services provided by a NF, regardless of whether specialized services are also needed, is inappropriate for NF placement and must be not be admitted.

3. Can be considered appropriate for continued placement in a NF. Any NF resident with MI or **MRID/RC** who requires the level of services provided by a NF, regardless of the length of his or her stay or the need for specialized services, can continue to reside in the NF, if the placement is appropriate.

4. May choose to remain in the NF even though the placement would otherwise be inappropriate. Any NF resident with MI or **MRID/RC** who does not require the level of services provided by the NF but does require specialized services and who has continuously resided in a NF for at least 30 consecutive months before the date of determination may choose to continue to reside in the facility or to receive covered services in an alternative appropriate institutional or noninstitutional setting. Wherever the resident chooses to reside, the state must meet his or her specialized services needs. The determination notice must provide information concerning how, when, and by whom the various placement options available to the resident will be fully explained to the resident.

5. Cannot be considered appropriate for continued placement in a NF and must be discharged (short-term residents). Any NF resident with MI or **MRID/RC** who does not require the level of services provided by a NF but does require specialized services and who has resided in a NF for less than 30 consecutive months be discharged to an appropriate setting where the state must provide specialized services. The determination notice must provide information on how, when, and by whom the resident will be advised of discharge arrangements and of his/her appeal rights under both **PASARR** PASRR and discharge provisions.

6. Cannot be considered appropriate for continued placement in a NF and must be discharged (short or long-term residents). Any NF resident with MI or **MRID/RC** who does not require the level of services provided by a NF and does not require specialized services regardless of his or her length of stay, must be discharged. The determination notice must provide information on how, when and by whom the resident will be advised of discharge arrangements and of his or her appeal rights under both **PASARR** PASRR and discharge provisions.

7. Specialized services needed in a NF. If a determination is made to admit or allow to remain in a NF any individual who requires specialized services, the determination must be supported by assurances that the specialized services that are needed can and will be provided or arranged for in a timely manner by the state which the individual resides in the NF.

B. The state **PASARR** PASRR system shall maintain records of evaluations and determinations, regardless of whether they are performed categorically or individually, in order to support its determinations and actions and to protect the appeal rights of individuals subjected to **PASARR** PASRR. The state **PASARR**PASRR system shall establish and maintain a tracking system for all individuals with MI or **MRID/RC** in NFs to ensure that appeals and future reviews are performed.

12VAC30-130-230 Evaluating the need for NF services and NF level of care (PASARR/NF)

A. For each applicant for admission to a NF and each NF resident who has MI or MRID/RC, the evaluator must assess whether (i) the applicant's or resident's total needs are such that his needs can be met in an appropriate community setting; (ii) the individual's total needs are such that they can be met only on an inpatient basis, which may include the option of placement in a home and community-based services waiver program, but for which the inpatient care would be required; (iii) if inpatient care is appropriate and desired, the NF is an appropriate institutional setting for meeting those needs; or (iv) if the inpatient care is appropriate and desired but the NF is not the appropriate setting for meeting the individual's needs, another setting such as an ICF/MRID (including small, community-based facilities), an IMD providing services to individuals ages 65 or older, or a psychiatric hospital is an appropriate institutional setting for meeting those needs.

B. In determining appropriate placement, the evaluator must prioritize the physical and mental needs of the individual being evaluated, taking into account the severity of each condition.

C. At a minimum the data relied on to make a determination must include: (i) evaluation of physical status (for example, diagnoses, date of onset, medical history, and prognosis); (ii) evaluation of mental status (for example, diagnoses, date of onset, medical history, likelihood that the individual may be a danger to himself/herself or others); and (iii) functional assessment (activities of daily living). For individuals for whom NF placement is considered an appropriate option by the evaluator, per the evaluation in paragraphs (a) and (b) of this section, the evaluator must assess what services for MI or ID the individual may need which are offered as part of standard NF services, including behavioral health services and specialized rehabilitative services as described in 42 C.F.R. §§ 483.30 and 483.65, respectively.

D. Based on the data compiled, the MH/MRA must determine whether an NF level of services is needed.

12VAC30-130-240 Evaluating whether an individual with MI requires specialized services (PASARR/MI) the Need for Specialized Services

A. The purpose of this section is to identify the minimum data needs and process requirements for the ~~state MHA~~SMHA, which is responsible for determining whether or not the applicant or resident with MI needs a specialized services program for mental illness.

B. Minimum data collected must include:

1. A comprehensive history and physical examination of the person. If the history and physical examination are not performed by a physician, then a physician must review and concur with the conclusions. The following areas must be included (if not previously addressed): complete medical history; review of all body systems; specific evaluation of the person's neurological system in the areas of motor functioning, sensory functioning, gait, deep tendon reflexes, cranial nerves, and abnormal reflexes; and in case of abnormal findings which are the basis for a NF placement, additional evaluations conducted by appropriate specialists.

2. A comprehensive drug history including current or immediate past use of medications that could mask symptoms or mimic mental illness.

3. A psychological evaluation of the person, including current living arrangements and medical and support systems.
 4. A comprehensive psychiatric evaluation including a complete psychiatric history, evaluation of intellectual functioning, memory functioning, and orientation, description of current attitudes and overt behaviors, affect, suicidal or homicidal ideation, paranoia, and degree of reality testing (presence and content of delusions) and hallucinations.
 5. A functional assessment of the individual's ability to engage in activities of daily living and the level of support that would be needed to assist the individual to perform these activities while living in the community. The assessment must determine whether this level of support can be provided to the individual in an alternative community setting or whether the level of support needed is such that NF placement is required. The functional assessment must address the following areas: Self-monitoring of health status, self-administering and scheduling of medical treatment, including medication compliance, or both, self-monitoring of nutritional status, handling money, dressing appropriately, and grooming.
- C. The state may designate the mental health professionals who are qualified to perform the evaluations required including the comprehensive drug history; psychosocial evaluation; comprehensive psychiatric evaluation; functional assessment; and to make the determination required.
- D. Based on the data compiled, a qualified mental health professional, as designated by the state, must validate the diagnosis of mental illness and determine whether a program of psychiatric specialized services is needed.

12VAC30-130-250 Evaluating whether an individual with MR/RC ID/RC requires specialized services (PASARR/MRPASRR/ID)

A. The purpose of this section is to identify the minimum data needs and process requirements for the ~~state MRA~~ SIDA to determine whether or not the applicant or resident with ~~mental retardation~~ ID or a related condition needs a continuous specialized services program. Minimum data collected must include the individual's comprehensive history and physical examination results to identify the following information or, in the absence of data, must include information that permits a reviewer specifically to assess:

1. The individual's medical problems;
2. The level of impact these problems have on the individual's independent functioning;
3. All current medications used by the individual and the current response of the individual to any prescribed medications in the following drug groups: hypnotics, antipsychotics (neuroleptics), mood stabilizers and antidepressants, anti-anxiety-sedative agents, and anti-Parkinsonian agents.
4. Self-monitoring of health status;
5. Self-administering and scheduling of medical treatments;
6. Self-monitoring of nutritional status;
7. Self-help development such as toileting, dressing, grooming, and eating;
8. Sensorimotor development, such as ambulation, positioning, transfer skills, gross motor dexterity, visual motor perception, fine motor dexterity, eye-hand

coordination, and extent to which prosthetic, orthotic, corrective or mechanical supportive devices can improve the individual's functional capacity;

9. Speech and language (communication) development, such as expressive language (verbal and nonverbal), receptive language (verbal and nonverbal), extent to which nonoral communication systems can improve the individual's function capacity, auditory functioning, and extent to which amplification devices (e.g. hearing aid) or a program of amplification can improve the individual's functional capacity;

10. Social development, such as interpersonal skills, recreation-leisure skills, and relationships with others;

11. Academic/educational development, including functional learning skills;

12. Independent living development such as meal preparation, budgeting and personal finances, survival skills, mobility skills (orientation to the neighborhood, town, city), laundry, housekeeping, shopping, bed making, care of clothing, and orientation skills (for individuals with visual impairments);

13. Vocational development, including present vocational skills;

14. Affective development such as interests, and skills involved with expressing emotions, making judgments, and making independent decisions; and

15. The presence of identifiable maladaptive or inappropriate behaviors of the individual based on systematic observation (including, but not limited to, the frequency and intensity of identified maladaptive or inappropriate behaviors).

B. The state must ensure that a licensed psychologist identifies the intellectual functioning measurement of individuals with **MR ID** or a related condition. Based on the data compiled, the **MRAIDA**, using appropriate personnel as designated by the state, must validate that the individual has **MR ID** or is a person with a related condition and must determine whether specialized services for **MRID/RC** are needed. In making this determination, the **MHA IDA** must make a qualitative judgment on the extent to which the person's status reflects, singly and collectively, the characteristics commonly associated with the need for specialized services, including:

1. Inability to take care of most personal care needs; understand simple commands; communicate basic needs and wants; be employed at a productive wage level without systematic long term supervision or support; learn new skills without aggressive and consistent training; apply skills learned in a training situation to other environments or settings without aggressive and consistent training; demonstrate behavior appropriate to the time, situation or place without direct supervision; and make decisions requiring informed consent without extreme difficulty;

2. Demonstration of severe maladaptive behavior(s) that place the person or others in jeopardy to health and safety; and

3. Presence of other skill deficits or specialized training needs that necessitate the availability of trained **MRID** personnel, 24 hours per day, to teach the person functional skills.

12VAC30-130-260 Appeals

A. Following notification to the NF of the Level

II **assessment** evaluationdetermination by the **state-MH/MRA/SMHA/SIDA**, the NF

must inform the individual of the decision indicating the reasons for acceptance or denial and the method of appeal. Any individual, regardless of method of payment, who wishes to appeal the decision of the Level II evaluation may do so by sending written notification to the Department of Medical Assistance Services, Division of Client Appeals.

B. Decisions made by the **annual** resident review teams shall also be appealable to DMAS. The reviewed individual shall send written notification to DMAS, Division of Client Appeals.

C. All appeal requests must be made within 30 days of the individual's notification of the review decision.