

(b) *Determination of need for specialized services.* If the individual with mental illness or mental retardation is determined to require a NF level of care, the State mental health or mental retardation authority (as appropriate) must also determine, in accordance with § 483.130, whether the individual requires specialized services for the mental illness or mental retardation, as defined in § 483.120.

(c) *Timeliness*—(1) Except as specified in paragraph (c)(4) of this section, a preadmission screening determination must be made in writing within an annual average of 7 to 9 working days of referral of the individual with MI or MR by whatever agent performs the Level I identification, under § 483.128(a) of this part, to the State mental health or mental retardation authority for screening. (See § 483.128(a) for discussion of Level I evaluation.)

(2) The State may convey determinations verbally to nursing facilities and the individual and confirm them in writing.

(3) The State may compute separate annual averages for the mentally ill and the mentally retarded/developmentally disabled populations.

(4) The Secretary may grant an exception to the timeliness standard in paragraph (c)(1) of this section when the State—

- (i) Exceeds the annual average; and
- (ii) Provides justification satisfactory to the Secretary that a longer time period was necessary.

§ 483.114 Annual review of NF residents.

(a) *Individuals with mental illness.* For each resident of a NF who has mental illness, the State mental health authority must determine in accordance with § 483.130 whether, because of the resident's physical and mental condition, the resident requires—

- (1) The level of services provided by—
 - (i) A NF;
 - (ii) An inpatient psychiatric hospital for individuals under age 21, as described in section 1905(h) of the Act; or
 - (iii) An institution for mental diseases providing medical assistance to individuals age 65 or older; and
- (2) Specialized services for mental illness, as defined in § 483.120.

(b) *Individuals with mental retardation.* For each resident of a NF who has mental retardation, the State mental retardation or developmental disability authority must determine in accordance with § 483.130 whether, because of his or her physical or mental condition, the resident requires—

(1) The level of services provided by a NF or an intermediate care facility for the mentally retarded; and

(2) Specialized services for mental retardation as defined in § 483.120.

(c) *Frequency of review*—(1) A review and determination must be conducted for each resident of a Medicaid NF who has mental illness or mental retardation not less often than annually.

(2) "Annually" is defined as occurring within every fourth quarter after the previous preadmission screen or annual resident review.

(d) *April 1, 1990 deadline for initial reviews.* The first set of annual reviews on residents who entered the NF prior to January 1, 1989, must be completed by April 1, 1990.

§ 483.116 Residents and applicants determined to require NF level of services.

(a) *Individuals needing NF services.* If the State mental health or mental retardation authority determines that a resident or applicant for admission to a NF requires a NF level of services, the NF may admit or retain the individual.

(b) *Individuals needing NF services and specialized services.* If the State mental health or mental retardation authority determines that a resident or applicant for admission requires both a NF level of services and specialized services for the mental illness or mental retardation—

(1) The NF may admit or retain the individual; and

(2) The State must provide or arrange for the provision of the specialized services needed by the individual while he or she resides in the NF.

§ 483.118 Residents and applicants determined not to require NF level of services.

(a) *Applicants who do not require NF services.* If the State mental health or mental retardation authority determines that an applicant for admission

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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.

(b) *Residents who require neither NF services nor specialized services for MI or MR.* If the State mental health or mental retardation authority determines that a resident requires neither the level of services provided by a NF nor specialized services for MI or MR, regardless of the length of stay in the facility, the State must—

(1) Arrange for the safe and orderly discharge of the resident from the facility in accordance with § 483.12(a); and

(2) Prepare and orient the resident for discharge.

(c) *Residents who do not require NF services but require specialized services for MI or MR—*(1) *Long term residents.* Except as otherwise may be provided in an alternative disposition plan adopted under section 1919(e)(7)(E) of the Act, 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 as defined in § 483.120, 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 covered under the State Medicaid plan for the resident;

(iii) Clarify the effect on eligibility for Medicaid services under the State plan if the resident chooses to leave the facility, including its effect on re-admission to the facility; and

(iv) Regardless of the resident's choice, provide for, or arrange for the provision of specialized services for the mental illness or mental retardation.

(2) *Short term residents.* Except as otherwise may be provided in an alternative disposition plan adopted under section 1919(e)(7)(E) of the Act, for any resident who requires only specialized services, as defined in § 483.120, and 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 in accordance with § 483.12(a);

(ii) Prepare and orient the resident for discharge; and

(iii) Provide for, or arrange for the provision of, specialized services for the mental illness or mental retardation.

(3) For the purpose of establishing length of stay in a NF, the 30 months of continuous residence in a NF or longer—

(i) 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;

(ii) May include temporary absences for hospitalization or therapeutic leave; and

(iii) May consist of consecutive residences in more than one NF.

§ 483.120 Specialized services.

(a) *Definition—*(1) 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—

(i) Is developed and supervised by an interdisciplinary team, which includes a physician, qualified mental health professionals and, as appropriate, other professionals.

(ii) 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; and

(iii) Is directed toward diagnosing and reducing the resident's behavioral symptoms that necessitated 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.

(2) For mental retardation, specialized services means the services specified by the State which, combined with