

**§ 483.108**

**42 CFR Ch. IV (10–1–05 Edition)**

transfers are subject to annual resident review rather than preadmission screening.

(ii) In cases of transfer of a resident with MI or MR 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 PASARR and resident assessment reports accompany the transferring resident.

(c) *Purpose.* The preadmission screening and annual resident review process must result in determinations based on a physical and mental evaluation of each individual with mental illness or mental retardation, that are described in §§ 483.112 and 483.114.

(d) *Responsibility for evaluations and determinations.* The PASARR determinations of whether an individual requires the level of services provided by a NF and whether specialized services are needed—

(1) For individuals with mental illness, must be made by the State mental health authority and be based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority; and

(2) For individuals with mental retardation, must be made by the State mental retardation or developmental disabilities authority.

(e) *Delegation of responsibility*—(1) The State mental health and mental retardation authorities may delegate by subcontract or otherwise the evaluation and determination functions for which they are responsible to another entity only if—

(i) The State mental health and mental retardation authorities retain ultimate control and responsibility for the performance of their statutory obligations;

(ii) The two determinations as to the need for NF services and for specialized services are made, based on a consistent analysis of the data; and

(iii) The entity to which the delegation is made is not a NF or an entity that has a direct or indirect affiliation or relationship with a NF.

(2) The State mental retardation authority has responsibility for both the evaluation and determination functions for individuals with MR whereas the State mental health authority has

responsibility only for the determination function.

(3) The evaluation of individuals with MI cannot be delegated by the State mental health authority because it does not have responsibility for this function. The evaluation function must be performed by a person or entity other than the State mental health authority. In designating an independent person or entity to perform MI evaluations, the State must not use a NF or an entity that has a direct or indirect affiliation or relationship with a NF.

[57 FR 56506, Nov. 30, 1992; 58 FR 25784, Apr. 28, 1993]

**§ 483.108 Relationship of PASARR to other Medicaid processes.**

(a) PASARR determinations made by the State mental health or mental retardation authorities cannot be countermanded by the State Medicaid agency, either in the claims process or through other utilization control/review processes or by the State survey and certification agency. Only appeals determinations made through the system specified in subpart E of this part may overturn a PASARR determination made by the State mental health or mental retardation authorities.

(b) In making their determinations, however, the State mental health and mental retardation authorities must not use criteria relating to the need for NF care or specialized services that are inconsistent with this regulation and any supplementary criteria adopted by the State Medicaid agency under its approved State plan.

(c) To the maximum extent practicable, in order to avoid duplicative testing and effort, the PASARR must be coordinated with the routine resident assessments required by § 483.20(b).

**§ 483.110 Out-of-State arrangements.**

(a) *Basic rule.* The State in which the individual is a State resident (or would be a State resident at the time he or she becomes eligible for Medicaid), as defined in § 435.403 of this chapter, must pay for the PASARR and make the required determinations, in accordance with § 431.52(b).