

State mental health authority, which is responsible for determining whether or not the applicant or resident with MI, as defined in § 483.102(b)(1) of this part, needs a specialized services program for mental illness as defined in § 483.120.

(b) *Data.* Minimum data collected must include—(1) A comprehensive history and physical examination of the person. The following areas must be included (if not previously addressed):

- (i) Complete medical history;
- (ii) Review of all body systems;
- (iii) 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
- (iv) In case of abnormal findings which are the basis for an 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 psychosocial 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.

(6) 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 nu-

tritional status, handling money, dressing appropriately, and grooming.

(c) *Personnel requirements.* (1) If the history and physical examination are not performed by a physician, then a physician must review and concur with the conclusions.

(2) The State may designate the mental health professionals who are qualified—

(i) To perform the evaluations required under paragraph (b) (2)–(6) of this section including the—

- (A) Comprehensive drug history;
- (B) Psychosocial evaluation;
- (C) Comprehensive psychiatric evaluation;
- (D) Functional assessment; and

(ii) To make the determination required in paragraph (d) of this section.

(d) *Data interpretation.* 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.

§ 483.136 Evaluating whether an individual with mental retardation requires specialized services (PASARR/MR).

(a) *Purpose.* The purpose of this section is to identify the minimum data needs and process requirements for the State mental retardation authority to determine whether or not the applicant or resident with mental retardation, as defined in § 483.102(b)(3) of this part, needs a continuous specialized services program, which is analogous to active treatment, as defined in § 435.1010 of this chapter and § 483.440.

(b) *Data.* 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:

- (i) Hypnotics,
- (ii) Antipsychotics (neuroleptics),
- (iii) Mood stabilizers and antidepressants,
- (iv) Antianxiety-sedative agents, and
- (v) Anti-Parkinson 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 non-oral communication systems can improve the individual's function capacity, auditory functioning, and extent to which amplification devices (for example, 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, bedmaking, 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).

(c) *Data interpretation*—(1) The State must ensure that a licensed psychologist identifies the intellectual functioning measurement of individuals with MR or a related condition.

(2) Based on the data compiled in paragraph (b) of this section, the State mental retardation authority, using appropriate personnel, as designated by the State, must validate that the individual has MR or is a person with a related condition and must determine whether specialized services for mental retardation are needed. In making this determination, the State mental retardation authority 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—

- (i) Inability to—
 - (A) Take care of the most personal care needs;
 - (B) Understand simple commands;
 - (C) Communicate basic needs and wants;
 - (D) Be employed at a productive wage level without systematic long term supervision or support;
 - (E) Learn new skills without aggressive and consistent training;
 - (F) Apply skills learned in a training situation to other environments or settings without aggressive and consistent training;
 - (G) Demonstrate behavior appropriate to the time, situation or place without direct supervision; and
 - (H) Make decisions requiring informed consent without extreme difficulty;
- (ii) Demonstration of severe maladaptive behavior(s) that place the person or others in jeopardy to health and safety; and
- (iii) Presence of other skill deficits or specialized training needs that necessitate the availability of trained MR

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personnel, 24 hours per day, to teach the person functional skills.

[57 FR 56506, Nov. 30, 1992; 58 FR 25784, Apr. 28, 1993, as amended at 71 FR 39229, July 12, 2006]

§ 483.138 Maintenance of services and availability of FFP.

(a) *Maintenance of services.* If a NF mails a 30 day notice of its intent to transfer or discharge a resident, under § 483.12(a) of this chapter, the agency may not terminate or reduce services until—

(1) The expiration of the notice period; or

(2) A subpart E appeal, if one has been filed, has been resolved.

(b) *Availability of FFP.* FFP is available for expenditures for services provided to Medicaid recipients during—

(1) The 30 day notice period specified in § 483.12(a) of this chapter; or

(2) During the period an appeal is in progress.

Subpart D—Requirements That Must Be Met by States and State Agencies: Nurse Aide Training and Competency Evaluation, and Paid Feeding Assistants

SOURCE: 56 FR 48919, Sept. 26, 1991, unless otherwise noted.

§ 483.150 Statutory basis; Deemed meeting or waiver of requirements.

(a) *Statutory basis.* This subpart is based on sections 1819(b)(5) and 1919(b)(5) of the Act, which establish standards for training nurse-aides and for evaluating their competency.

(b) *Deemed meeting of requirements.* A nurse aide is deemed to satisfy the requirement of completing a training and competency evaluation approved by the State if he or she successfully completed a training and competency evaluation program before July 1, 1989 if—

(1) The aide would have satisfied this requirement if—

(i) At least 60 hours were substituted for 75 hours in sections 1819(f)(2) and 1919(f)(2) of the Act, and

(ii) The individual has made up at least the difference in the number of hours in the program he or she com-

pleted and 75 hours in supervised practical nurse aide training or in regular in-service nurse aide education;

or

(2) The individual was found to be competent (whether or not by the State) after the completion of nurse aide training of at least 100 hours duration.

(c) *Waiver of requirements.* A State may—

(1) Waive the requirement for an individual to complete a competency evaluation program approved by the State for any individual who can demonstrate to the satisfaction of the State that he or she has served as a nurse aide at one or more facilities of the same employer in the state for at least 24 consecutive months before December 19, 1989; or

(2) Deem an individual to have completed a nurse aide training and competency evaluation program approved by the State if the individual completed, before July 1, 1989, such a program that the State determines would have met the requirements for approval at the time it was offered.

[56 FR 48919, Sept. 26, 1991; 56 FR 59331, Nov. 25, 1991, as amended at 60 FR 50443, Sept. 29, 1995]

§ 483.151 State review and approval of nurse aide training and competency evaluation programs and competency evaluation programs.

(a) *State review and administration.* (1) The State—

(i) Must specify any nurse aide training and competency evaluation programs that the State approves as meeting the requirements of § 483.152 and/or competency evaluations programs that the State approves as meeting the requirements of § 483.154; and

(ii) May choose to offer a nurse aide training and competency evaluation program that meets the requirements of § 483.152 and/or a competency evaluation program that meets the requirements of § 483.154.

(2) If the State does not choose to offer a nurse aide training and competency evaluation program or competency evaluation program, the State must review and approve or disapprove nurse aide training and competency evaluation programs and nurse aide