

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.040 Medicaid Eligibility and Preadmission Screening for Mentally Ill and [Mentally Retarded] Intellectually Disabled Individuals. The MO HealthNet Division is amending sections (1), (3), (4), (6), (7), and (8), and adding a new section (9).

PURPOSE: This amendment updates the requirements around the screening and evaluation process for Medicaid participants to a nursing facility and adds the incorporation by reference language in paragraph (9).

(1) Any individual who is admitted to a Medicaid certified **nursing facility (NF)** bed on or after January 1, 1989, and has not been screened for mental illness (**MI**) and *[mental retardation]* **intellectual disability (ID) or related condition (RC)** prior to admission *[to a Medicaid-certified nursing facility (NF) bed]* or who does not have a valid special admission *[exemption]* **category** will not be eligible for Title XIX payments to be made on his/her behalf for NF services.

(A) *[This rule incorporates by reference]* **The facility must complete a preadmission screening for individuals with a mental illness and individuals with ID as described in 42 Code of Federal Regulations (CFR) [483.20(m)(1) and (2)]483.20(k).**

(B) For purposes of this rule an individual is considered to have mental illness if the individual has a serious mental illness as defined in 42 CFR 483.102(b)(1)*[which is hereby incorporated by reference].*

(C) For purposes of this rule an individual is considered to *[be mentally retarded]* **have an ID** if the individual is *[mentally retarded]* **intellectually disabled** as defined in 42 CFR 483.102(b)(3)*[, which is hereby incorporated by reference,]* or is a person with a related condition as described in *[42 CFR 435.1009]* **42 CFR 435.1010***[, which is hereby incorporated by reference].*

(3) Preadmission screening and resident reviews (*[PASARR]* **PASRR**) will include an assessment of the individual's:

(A) Physical condition;

(B) Mental condition; *[and]*

(C) **Need for nursing facility services to comply with 42 CFR 483.112(a); and**

[(C)] **(D) Need for specialized services for [mental illness]MI, [or mental retardation]ID, or RC.**

1. If a Medicaid nursing facility resident is determined to need specialized services, the state will provide or arrange for such services while the Medicaid participant is in a nursing facility.

(4) For purposes of this rule, the term "specialized services" is defined for individuals with--

(A) *[Mental illness]* **MI** as the **continuous and aggressive** implementation of an individualized plan of care developed *[under and supervised by a physician, provided by a physician and other*

qualified mental health professionals, that] **and supervised by an interdisciplinary team, which includes a physician, qualified mental health professional and, as appropriate, other professional that prescribes specific therapies and activities for the treatment of persons [who are]experiencing an acute episode of [serious mental illness]MI which necessitates supervision by trained mental health personnel and 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; and**

(B)*[Mental retardation]ID* or other *[related condition(s)]RC(s)* as a continuous program for each client, which **results in treatment that meets the requirements of 42 CFR 483.440(a)(1) and includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and services that are directed towards the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and the prevention or deceleration of regression or loss of current optimal function status. Specialized services do not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous treatment program.**

(6) The preadmission screening and resident review process *[will be divided into]* **has two (2) parts: Level I and Level II.**

(A) The purpose of a Level I screening is to identify a nursing facility applicant or resident *[who is known or]suspected [to be mentally ill, mentally retarded or developmentally disabled]* **of having a MI, ID, or RC.**

(B) The purpose of a Level II *[screening]evaluation* is to *[confirm that the individual is mentally impaired and to determine whether the individual needs specialized services and determine if a nursing facility is an appropriate setting]* **perform a comprehensive evaluation in person or by telehealth to validate the applicant has a MI, ID, or RC and evaluate the individual's treatment needs to determine if NF services are needed and if specialized services are required.** If a determination is made that placement in an NF is inappropriate, no Title XIX vendor payments will be made or continue to be made in the case of a resident already in the NF **unless the resident meets the requirements of 42 CFR 483.118(c)(1) and elects to stay in the NF.**

1. For those individuals already residing or admitted to a NF that experience a change of condition or for those individuals that fall under a special admission category specified in subsection (7)(D), a resident review of the individual's records in accordance with 42 CFR 483.134 and 483.136 may be required to determine if specialized services are appropriate or if modifications are needed.

(7) Any individual identified *[to be or]as having a suspected [to be mentally ill, mentally retarded or developmentally disabled]MI, ID, or RC* by the Level I screening *[may require]* **will be referred to Department of Mental Health (DMH) for a Level II [screening]evaluation. A Level II [screening]evaluation [must be performed]is required** prior to admittance into a certified bed located in an NF, unless a valid special admission category, **as specified in subsection (7)(D), applies.**

(A) *[The Level II screening shall be performed by the Department of Mental Health]***DMH** or its designee **will perform all Level II evaluations.** If a review indicates *[that specialized services are required at a level of care]***a level of services** that can only be furnished in an intermediate care facility for *[the mentally retarded (ICF/MR)]***individuals with intellectual disabilities (ICF/IID)**, within the Home and Community Based Waiver for the Developmentally Disabled or an acute care mental hospital, that individual is inappropriate for admission or continued stay in an NF. This will be true even if the individual meets the *[eighteen (18)-point count]***level of care** under *[13 CSR 15-9.030]***19 CSR 30-81.030** needed for authorization of Medicaid nursing facility payments.

(B) Any individual determined through the Level II evaluation to require specialized services and to not require NF services shall be discharged if the Level II evaluation determines that the individual's nursing care needs can be met in other settings regardless of the level of care under 19 CSR 30-81.030 unless the resident meets the requirements of 42 CFR 483.118(c)(1) and elects to stay in the NF.

1. If an individual described in subsection (7)(A) has medical needs which can only be met in an NF, as confirmed by and recommended by a Level II *[screening]***evaluation** and communicated to the *[nursing facility]***NF** by the *[Division of Aging]***Department of Health and Senior Services (DHSS)**, that individual may be admitted or continue to remain in an NF. If the medical condition improves and nursing needs could be met in other settings, the individual shall be discharged **unless the resident meets the requirements of 42 CFR 483.118(c)(1) and elects to stay in the NF.**

2. A written evaluation report must be prepared at the conclusion of each Level II evaluation. The evaluation report must identify the specific nursing facility services, intellectual disability services, or mental health services required to meet the evaluated individual's needs.

*[2]***3. Notice of a decision resulting from a Level II *[screening]*evaluation shall be sent *[by the Division of Aging]* to the referring entity who submitted the Level I screening forms and the proposed placement facility, if different, as well as the evaluated individual and his or her legal representative, the individual's attending physician, and the discharging hospital unless the hospital discharge is exempt from the preadmission screening per 42 CFR 483.106(b)(2).**

*[(B)]***(C) *[Any individual suspected of being mentally ill, mentally retarded or developmentally disabled by the Level II process and who has been admitted to an NF shall be subject to a Level II preadmission screening/resident review. Any individual determined through the Level II process to be mentally ill, mentally retarded or developmentally disabled and to require specialized services shall be discharged if a Level II screening determines nursing care needs can be met in other settings regardless of the point count under 13 CSR 15-9.030.]*Any individual admitted to or currently residing in a NF and identified as having a suspected MI, ID, or RC by the Level I screening shall be subject to a Level II evaluation.**

*[(C)]***(D) Special admission categories are *[as follows:]*subject to advanced group determinations as defined in 42 CFR 483.130(b)(1) and are based on the criteria specified in 42 CFR 483.130(c).**

1. *[A person who qualifies for a special admission category shall have mental health screen performed as detailed per the following]***The following special admission categories may be admitted directly to a NF after the Level I screening is completed and receive the Level II**

evaluation or resident review following admission as appropriate based on the individual's medical condition or admission justification:

A. Terminal illness. *[The person is certified by a physician to be terminally ill.]* As defined by the Social Security Act, an individual is *[considered to be]* terminally ill if there is a medical prognosis that the individual's life expectancy is six (6) months or less $[\text{; and}]$.

B. Severely ill. The person is comatose, ventilator dependent, functions at brain stem level or has a diagnosis of chronic obstructive pulmonary disease, severe Parkinson's disease, Huntington's disease, Amyotrophic Lateral Sclerosis or congestive heart failure which results in a level of physical impairment so severe the individual could not be expected to benefit from specialized services $[\text{; and}]$.

C. Emergency provisional admission. This category is for a situation in which an individual needs placement to protect the individual from serious physical harm to self or others. The NF must contact DHSS Adult Abuse and Neglect Hotline to make a formal request prior to admission. This special admission category requires prior authorization by DHSS as an emergency. No more than seven (7) days will be allowed for an emergency admission. The Department of Social Services, Family Support Division (FSD) will manage those dates based on information from DHSS. If the individual needs to stay in the NF longer than seven (7) days, the NF must immediately notify DHSS to determine continued stay. A comprehensive Level II evaluation or resident review must be performed after the initial seven (7) day period if continued stay is necessary.

D. Respite care. An individual may be admitted and remain in a NF for thirty (30) consecutive days or less with a forty-two (42) day maximum in twelve (12) months in order to provide respite for the individual's caregiver. A comprehensive Level II evaluation is not required for the first thirty (30) consecutive days. FSD will control the NF authorized payment dates by means of a form they send to DHSS. No payment will be made to the NF beyond the thirty (30) days. If a situation arises in which the stay is longer than thirty (30) days, the NF must contact DHSS. If a continued stay is authorized, a comprehensive Level II evaluation or resident review must be performed within forty (40) calendar days of the individual's admission to the NF if continued stay is necessary.

[2. The following special admission categories may require a mental health evaluation following admission:

*A/E. Direct transfer from a hospital[--]. If a physician attests that the individual is likely to need thirty (30) days or less of [nursing facility]NF care for the condition for which the individual was hospitalized, **the individual may be admitted to a NF and no Level II [screening is necessary and the individual is exempt from the PASARR process]evaluation or resident review is required during that thirty (30) days or less period.** [Nursing facility]NF payment will be made for no more than thirty (30) days. If **after admission to the NF** it becomes apparent that the individual will need NF care longer than thirty (30) days, the *[facility]NF* must immediately notify *[the Division of Aging]DHSS*. If a continued stay is approved, a **comprehensive Level II [screening may]evaluation must be performed[:]** **within forty (40) calendar days of the individual's admission to the NF.***

[B. Emergency provisional admission--This category is for a situation in which an individual needs placement to protect the individual from serious physical harm to self or others. The nursing facility must contact the Division of Aging Elderly Abuse/Neglect hotline to make a formal request. This special admission category requires prior authorization by the Division of Aging as an emergency. No more than seven (7) days will be allowed for an emergency

admission. The Division of Family Services will manage those dates based on information from the Division of Aging. If the resident needs to stay in the facility longer than seven(7) days, the facility must immediately notify the Division of Aging to determine continued stay. A Level II screening may be performed after the initial seven (7)-day period; and

C. Respite care--An individual may be admitted and remain in a facility for thirty (30) consecutive days or less with a forty-two (42)-day maximum in twelve (12) months in order to provide respite for the individual's caregiver. A Level II screening is not required. The Division of Family Services will control the nursing facility authorized payment dates by means of a form they send to the state office. No payment will be made to the nursing facility beyond the thirty (30) days. If a situation arises in which the stay is longer than thirty (30) days, the nursing facility must contact the Division of Aging. If a continued stay is authorized, a Level II screening may be performed.]

(8) The Department of Social Services, **DHSS**, and *[the Department of Mental Health]***DMH** will have joint responsibility for the preadmission screening process.

(9) This rule incorporates by reference the following materials, as published by U.S. Government Publishing Office, U.S. Superintendent of Documents, Washington, DC 20402, October 1, 2023. This rule does not incorporate any subsequent amendments or additions:

- (A) 42 CFR section 483.20(k),**
- (B) 42 CFR section 483.102(b)(1),**
- (C) 42 CFR section 483.102(b)(3),**
- (D) 42 CFR section 435.1010,**
- (E) 42 CFR section 483.112(a),**
- (F) 42 CFR section 483.440(a)(1),**
- (G) 42 CFR section 483.118(c)(1),**
- (H) 42 CFR section 483.134,**
- (I) 42 CFR section 483.136,**
- (J) 42 CFR section 483.106(b)(2),**
- (K) 42 CFR section 483.130(b)(1), and**
- (L) 42 CFR section 483.130(c).**

AUTHORITY: sections 208.153, and 208.201, RSMo 1994.* Emergency rule filed Dec. 30, 1988, effective Jan. 10, 1989, expired April 29, 1989. Original rule filed Feb. 15, 1989, effective April 27, 1989. Amended: Filed June 6, 1989, effective Aug. 24, 1989. Amended: Filed July 23, 1991, effective Dec. 9, 1991. Amended: Filed May 27, 1999, effective Jan. 30, 2000. Amended: Filed November 14, 2025.

*Original authority: 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991 and 208.201, RSMo 1987.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing will not be scheduled.*