

PASARR for Nursing Homes



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OBRA Helpdesk

MDHHS-OBRA-Helpdesk@michigan.gov

Statewide Partners

- MDHHS contracts with local Community Mental Health Service Providers (CMHSP) across the state to conduct PASARR assessments and provide mental health services to their catchment areas.
- Calls made to our office should first be triaged by your local CMHSP's OBRA Coordinator. The OBRA Coordinator list can be found on the OBRA website.

What is OBRA?

Omnibus

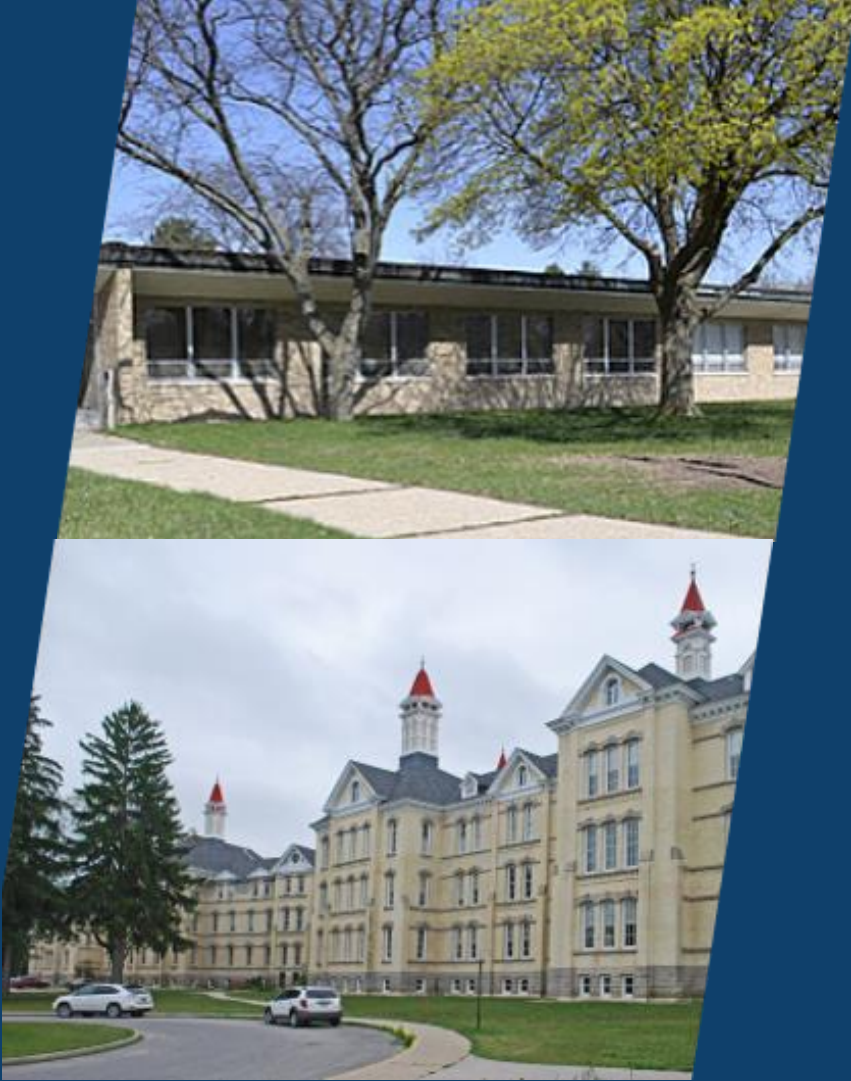
Budget

Reconciliation

Act (of 1987)

HISTORY OF OBRA

Historically,
individuals with Mental
Illness and/or
Developmental Disabilities
have been widely
“warehoused” in state
psychiatric hospitals





- https://opacity.us/site102_vpsilanti_state_hospital.htm
- https://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4868_4896_92486-495572--,00.html
- <http://projects.leadr.msu.edu/mhpp/items/show/6>
- https://www.michigan.gov/mdhhs/0,5885,7-339-71550_2941_4868_4896_92486-495569--,00.html

What is Considered a Serious Mental Illness?

- The individual is considered to have a serious mental illness (SMI) if the individual meets the following requirements on diagnosis, level of impairment **and** duration of illness:

1. Diagnosis:

- Schizophrenia
- Schizoaffective Disorders
- Psychotic Disorders
- Major Depressive Disorders
- Bipolar Disorders
- Severe Personality Disorders
- Severe Anxiety Disorders

- ## 2. 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 above.

What is Considered a Serious Mental Illness? (cont.)



3. The mental illness would be considered serious if it caused a functional impairment in the past year, or would have caused an impairment in the past year absent treatment or support services.

- This would mean that people with serious but managed conditions would still meet criteria for PASRR evaluation and determination, to ensure continuation of these supports while they are in the nursing facility.

4. OR The individual is assessed as having another psychiatric diagnosis, other than the above, and the OBRA Coordinator has determined the acuity is such that the individual may benefit from professional mental health services as provided by the CMHSP.

Intellectual/Developmental Disability and Related Condition



ID/DD/Related Conditions: severe, chronic disability that meets all of the following conditions:

- (a) It is attributable to—
 - (1) Cerebral palsy or epilepsy; or
 - (2) Any other condition, other than mental illness, found to be closely related to Intellectual Disability because this condition results 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.
- (b) It is manifested **before the person reaches age 22**
- (c) It is likely to continue **indefinitely**
- (d) 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

Capacity for independent
living

Self-direction

A Very Brief History of Deinstitutionalization

- 1955: Deinstitutionalization began with the introduction of chlorpromazine (more commonly known as Thorazine)
- 1965: Medicaid and Medicare Act enacted, making this drug more widely accessible
- People were able to be more “adequately” treated in the community
 - Less of a need for such restrictive care environments

A Very Brief History of Deinstitutionalization

- “Deinstitutionalization was based on the principle that severe mental illness should be treated in the least restrictive setting”, based on recommendations of President Jimmy Carter’s Presidential Commission on Mental Health
- Post-closure of the institutions, there was a mass movement of people with mental illness and/or developmental/intellectual disabilities from State Psychiatric Facilities into Nursing Homes and jails/prisons
 - This sounds like they were still being “warehoused”, doesn’t it?

OBRA

1987: Congress enacted legislation to strengthen the protection of nursing facility residents' rights (**OBRA**).

This legislation was the product of more than 10 years work by a coalition of advocates, nursing facility residents and families, representatives of business and labor, and nursing facility providers.

Federal Nursing Home Reform Act from the Omnibus Budget Reconciliation Act of 1987 (OBRA '87)



Required nursing facilities to meet specific standards to qualify for Medicare and Medicaid reimbursement.

The Medicaid Rules regarding long term care facilities and the implementation of the OBRA requirements were finalized in December 1992.

PASARR

PASARR

Preadmission Screen/Annual Resident Reviews

By April 1, 1990, states had to conduct Preadmission Screenings and Annual Resident Reviews (PASARR) to determine whether individuals with mental illness, intellectual/developmental disability or a related condition were appropriately placed.

Individuals identified as having a “PASARR condition” must not be placed into--or remain in—a nursing facility unless they meet criteria for nursing facility care or criteria for Transfer Trauma or the Thirty Month Rule.**

Two main goals of PASARR

To ensure individuals are placed in the “least restrictive” setting possible

If an individual with a mental illness, intellectual disability, or related condition remains in the nursing facility, they must be offered appropriate mental health services.

Olmstead Decision

- OBRA/PASARR regulations were strengthened with the Olmstead ruling, where the Supreme Court ruled in 1999 that "unjustified segregation of persons with disabilities constitutes discrimination in violation of title II of the Americans with Disabilities Act."
- Public entities must provide community-based services to persons with disabilities when
 - (1) such services are appropriate;
 - (2) the affected persons do not oppose community-based treatment;
 - (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

Level I Screens

LEVEL I REFERRAL: DCH-3877/DCH-3878

The MDHHS pre-admission screening and annual resident review (PASARR) is a two- tiered screening and evaluation process.

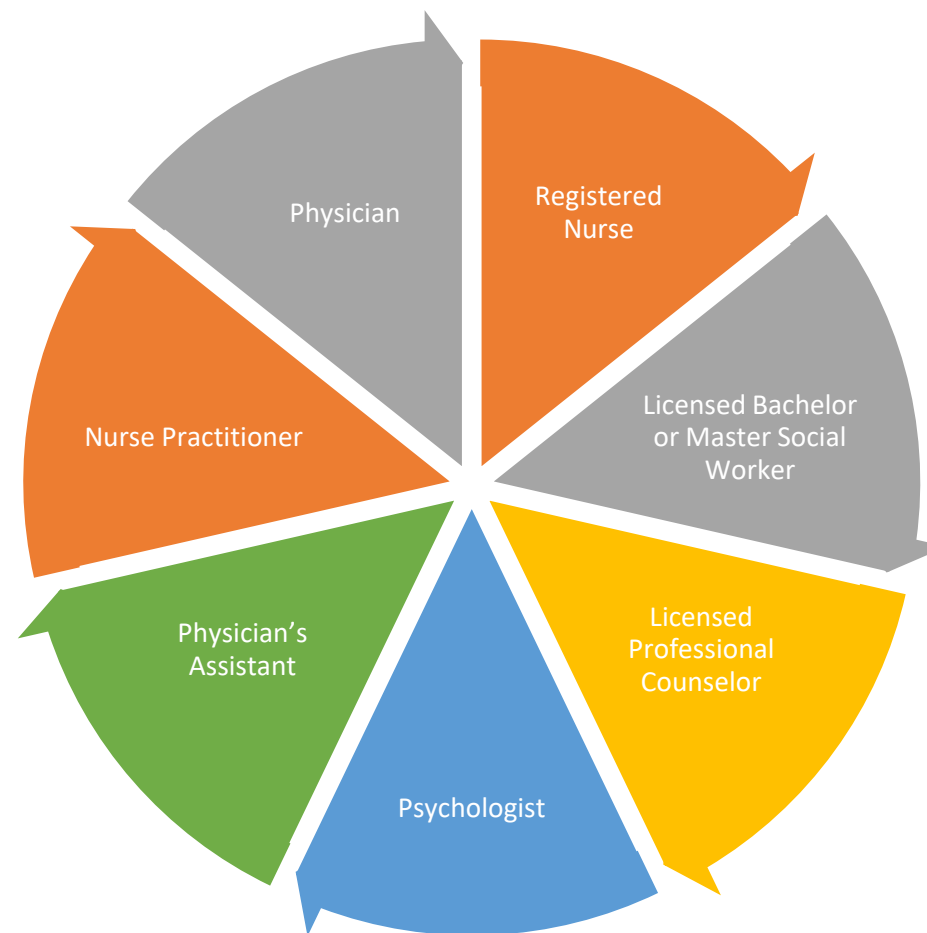
The Level I Screen consists of a DCH-3877 form and, when applicable, a DCH-3878 form.

The Level I Screen identifies individuals who may have a mental illness, intellectual/developmental disability or related conditions.

When is Level I DCH- 3877 completed?

- Anytime a person is being admitted to a nursing home
 - A person is discharging from a hospital to nursing home
 - Community provider (PCP, homecare provider, etc.) identifies the need for nursing home level of care
 - Annually, when an individual resides in a nursing home
 - Per the Medicaid Provider Manual, "Annually means within every fourth quarter after the previous Level I screening or Level II evaluation, whether it was completed for admission, condition change, or annual review. "
 - When there is a significant change in a nursing home resident's psychiatric condition
- ❖ Instances when it is *not* required can be found in the Medicaid Provider Manual

What
professions
can
complete
the Level I?



Who are these people?

Hospital Discharge
Planners

Discharging nurses

Homecare
providers

Case managers

Primary Care
Provider offices

Nursing Home
Staff

- Social Workers,
Registered Nurses

Level I DCH-3877

While this is only
a referral, it
should include the
most accurate
information
possible

**PREADMISSION SCREENING (PAS)/ANNUAL
RESIDENT REVIEW (ARR)**
(Mental Illness/Intellectual Developmental
Disability/Related Conditions Identification)
Michigan Department of Health and Human Services
Level I Screening

<input type="checkbox"/> PAS
<input type="checkbox"/> ARR
<input type="checkbox"/> Change in Condition
<input type="checkbox"/> Hospital Exempted Discharge

SECTION I – Patient, Legal Representative and Agency Information

Patient Name (First, MI, Last)			Date of Birth (MM/DD/YY)		Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
Address (number, street, apt. or lot #)			County of Residence		Social Security Number
City	State	Zip Code	Medicaid Beneficiary ID Number	Medicare ID Number	
Does this patient have a court-appointed guardian or other legal representative? <input type="checkbox"/> No <input type="checkbox"/> Yes →			If Yes, give Name of Legal Representative		
County in which the legal representative was appointed			Address (number, street, apt. number or suite number)		
Legal Representative Telephone Number			City	State	Zip Code
Referring Agency Name			Telephone Number		Admission Date (actual or proposed)
Nursing Facility Name (proposed or actual)			County Name		
Nursing Facility Address (number and street)			City	State	Zip Code

Sections II and III of this form must be completed by a registered nurse, licensed bachelor or master social worker, licensed professional counselor, psychologist, physician's assistant, nurse practitioner or a physician.

DCH-3877 (Rev. 3-21a) Previous edition obsolete. 1

Patient Name	Date of Birth (MM/DD/YY)
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SECTION II – Screening Criteria (All 6 items must be completed.)

1. The person has a current diagnosis of **Mental Illness** or **Dementia** (Circle one or both) ☐ No ☐ Yes
2. The person has received treatment for **Mental Illness** or **Dementia** (within the past 24 months) (Circle one or both) ☐ No ☐ Yes
3. The person has routinely received one or more prescribed antipsychotic or antidepressant medications within the last 14 days. ☐ No ☐ Yes
4. There is presenting evidence of mental illness or dementia, including significant disturbances in thought, conduct, emotions, or judgment. Presenting evidence may include, but is not limited to, suicidal ideations, hallucinations, delusions, serious difficulty completing tasks, or serious difficulty interacting with others. ☐ No ☐ Yes
5. The person has a diagnosis of an intellectual/developmental disability or a related condition including, but not limited to, epilepsy, autism, or cerebral palsy and this diagnosis manifested before the age of 22. ☐ No ☐ Yes
6. There is presenting evidence of deficits in intellectual functioning or adaptive behavior which suggests that the person may have an intellectual/developmental disability or a related condition. These deficits appear to have manifested before the age of 22. ☐ No ☐ Yes

Note: If you check "Yes" to items 1 and/or 2, circle the word "**Mental Illness**" and/or "**Dementia**."

Explain any "Yes"

Note: The person screened shall be determined to require a comprehensive Level II OBRA evaluation if any of the above items are "Yes" UNLESS a physician, nurse practitioner or physician's assistant certifies on form DCH-3878 that the person meets at least one of the exemption criteria.

SECTION III – CLINICIAN'S STATEMENT: I certify to the best of my knowledge that the above information is accurate.

Clinician Signature	Date	Name (type or print)
Address (number, street, apt. number or suite number)		Degree/License
City	State	Zip Code
Telephone Number		

The Michigan Department of Health and Human Services will not exclude from participation in, deny benefits of, or discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, gender identification or expression, sexual orientation, partisan considerations, or a disability or genetic information that is unrelated to the person's eligibility.

AUTHORITY: Title XIX of the Social Security Act

COMPLETION: Is voluntary, however, if NOT completed, Medicaid will not reimburse the nursing facility.

DISTRIBUTION: If any answer to items 1 – 6 in SECTION II is "Yes", send ONE copy to the local Community Mental Health Services Program (CMHSP), with a copy of form DCH-3878 if an exemption is requested. The nursing facility must retain the original in the patient record and provide a copy to the patient or legal representative.

DCH-3877 (Rev. 3-21a) Previous edition obsolete. 2

What does it mean?

- ☐ **PAS**
- ☐ **ARR**
- ☐ **Change in Condition**
- ☐ **Hospital Exempted Discharge**

PAS = Pre-Admission Screen

ARR = Annual Resident Review

CIC = Change in Condition

HED = Hospital Exempted Discharge

Exemptions to the Level II Process

- There are three instances a person may be exempted from a Level II assessment (for those who have “yes” answers on the Level I DCH-3877)
 - Coma
 - Dementia
 - Hospital Exempted Discharge
- To have a valid exemption, a **DCH-3878 must be completed**

Level I - 3878

MENTAL ILLNESS/INTELLECTUAL/DEVELOPMENTAL DISABILITY/RELATED CONDITION EXEMPTION CRITERIA CERTIFICATION
Michigan Department of Health and Human Services
(For Use in Claiming Exemption Only)
Level II Screening

INSTRUCTIONS:

- Must be completed, signed and dated by a nurse practitioner, physician's assistant or physician.
- The patient being screened shall require a comprehensive LEVEL II evaluation UNLESS any of exemption criteria below is met and certified by a physician's assistant, nurse practitioner or physician. Indicate which exemption applies.

Patient Name	Date of Birth	
Name of Referring Agency	Referring Agency Telephone Number	
Referring Agency Address (Number, Street, Building, Suite Number, etc.)		
City	State	Zip Code

Exemption Criteria

- ☐ **COMA:** Yes, I certify the patient under consideration is in a coma/persistent vegetative state.
- ☐ **DEMENTIA:** Yes, I certify the patient under consideration has dementia as established by clinical examination and evidence of meeting ALL 5 criteria below.
- Yes, I certify the patient under consideration does not have another primary psychiatric diagnosis of a serious mental illness.
- Yes, I certify the patient under consideration does not have an intellectual disability, developmental disability or a related condition.

Specify the type of dementia:

1. Has demonstrable evidence of impairment in short-term or long-term memory as indicated by inability to learn new information or remember three objects after five minutes, and the inability to remember past personal information or facts of common knowledge.
2. Exhibits at least one of the following:
 - Impairment of abstract thinking, as indicated by the inability to find similarities and differences between related words; has difficulty defining words, concepts and similar tasks.
 - Impaired judgment, as indicated by inability to make reasonable plans to deal with interpersonal, family and job-related issues.
 - Other disturbances of higher cortical function, i.e., aphasia, apraxia and constructional difficulty.
 - Personality change: altered or accentuated premorbid traits.
3. Disturbances in items 1 or 2 above significantly interfere with work, usual activities or relationships with others.
4. The disturbance has NOT occurred exclusively during the course of delirium.

Patient Name	Date of Birth
5. EITHER: <ul style="list-style-type: none">a. Medical history, physical exam and/or lab tests show evidence of a specific organic factor judged to be etiologically related to the disturbance, ORb. An etiologic organic factor is presumed in the absence of such evidence if the disturbance cannot be accounted for by any non-organic mental disorder.	
<input type="checkbox"/> HOSPITAL EXEMPTED DISCHARGE: Yes, I certify that the patient under consideration: <ol style="list-style-type: none">1. is being admitted after an inpatient medical hospital stay, AND2. requires nursing facility services for the condition for which he/she received hospital care, AND3. is likely to require less than 30 days of nursing services.	
Physician/Physician Assistant/Nurse Practitioner Signature and Credentials	
Date	
Name (Typed or Printed)	Telephone Number
AUTHORITY: Title XIX of the Social Security Act COMPLETION: Is voluntary, however, if NOT completed, Medicaid will not reimburse the nursing facility.	
The Michigan Department of Health and Human Services will not exclude from participation in, deny benefits of, or discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, gender identification or expression, sexual orientation, past considerations, or a disability or genetic information that is unrelated to the person's eligibility.	
COPY DISTRIBUTION: ORIGINAL- Nursing Facility retains in Patient file COPY - Attach to form DCH-3877 and send to Local Community Mental Health Services Program (CMHSP) COPY - Patient Copy or Legal Representative	

Coma and Dementia Exemptions

- Exempted from the Level II process
 - Coma
 - In persistent, vegetative state
 - Dementia
 - Dementia is primary over Mental Illness diagnosis
 - Can never be used for individuals with ID/DD/Related Condition
- ❖ Specific criteria for each exemption can be found on the DCH-3878

Hospital Exempted Discharge

- This exemption is unique in that it may lead to a Level II assessment
- An individual who meets the criteria for an HED may be admitted from a hospital to a nursing home without having a PAS completed first
- If that individual remains in the nursing facility for 25 days, they must be referred to the CMH for a Level II
 - This is done by forwarding the **original/admitting** DCH-3877 AND the properly completed DCH-3878 to the local CMH's OBRA Coordinator
- At this point, the CMH has 14 days to complete the Level II
- The MDHHS staff will make a determination on continued nursing home placement

Michigan PASARR Process Flow

All answers on the DCH-3877 are “no”

- The person may be admitted to the nursing facility

There is a “yes” answered on the DCH-3877

- If there is a proper exemption (DCH-3878), they may be admitted.
- If no exemption, the local CMHSP must be contacted

The local Coordinator will triage the case

- If the person meets criteria for SMI or I/ID, a Level II will be completed
- If the Coordinator finds the individual does not need a Level II, they will complete a letter

- Letters can be completed by the CMH in instances where a Level II is not needed
- Common examples include:
 - Not SMI or I/DD
 - Readmission to the nursing facility
 - Planned discharge
 - Only for HED, may still lead to a Level II if discharge plans fall through
 - Last determination was for No Mental Health Services

Level II Evaluations

Pre-Admission Screen Level II

- A full Level II evaluation must be completed prior to the person admitting to the nursing home unless they meet an exemption. These referrals come from:
 - Community referrals (living independently, AFC, etc.)
 - Psychiatric Hospital stays
 - Admitting directly into long-term care (not rehab)
 - Observation beds
 - Emergency Room
- This determination is valid for 30 days

Annual Resident Review Level II

Once a person admits to the nursing home, a Level II must be completed every year

Due date is based on the previous Level II determination date

As long as the person remains in the nursing home without an Exemption (dementia/coma)

Change in Condition examples

- A person admits with all “No’s” marked on the 3877 and is later diagnosed in the nursing facility with a Serious Mental Illness
 - Common example will go from Adjustment Disorder to Major Depressive Disorder
 - A person admits with a Dementia Exemption, and it is later determined the Dementia diagnosis is no longer primary
 - I.e., could benefit from mental health services
 - Resident is psychiatrically hospitalized during the ARR review year
 - Resident requires more intensive services and moving from Other Mental Health Services to Specialized Mental Health Services
-
- ❖ A CIC should not be completed for incorrect information on a 3877 unless it gives the person a PASARR condition
 - ❖ The 3877 is a referral form and may not always contain 100% accurate information

Processing a Level II Eval



Once the Coordinator submits the Level I, Level II, and other supporting documents to the State MDHHS Office, it is reviewed



The reviewer will make a determination based on what is provided by the Coordinator. The reviewer may also make additional recommendations for services.



Determinations can be good up to one year from the day of determination. More frequent re-evals may be requested, depending on the case

- ARR, CIC, and HEDs Level IIs are supposed to be completed by the CMH within 14 calendar days
- For ARRs/CICs/HEDs, you should have a copy of the Level II and determination letter within 3 weeks of referral.
- If you send in a referral and do not get a response within 14 days, reach out to your Coordinator and document this conversation.
 - It could save your facility a Medicaid Recovery!

Level II Determinations

Nursing Facility – No Mental Health Services	No Nursing Facility – No Mental Health Services
Nursing Facility – Other Mental Health Services	No Nursing Facility – Other Mental Health Services
Nursing Facility – Specialized Mental Health Services	No Nursing Facility – Specialized Mental Health Services

Specialized vs Other Mental Health Services

"Other Mental Health Services" are typically available to anyone in a nursing home

Example: Contracted provider providing medication management and/or cognitive behavioral therapy; nursing home social worker interaction

See Per Diem chart in Medicaid Provider Manual

"Specialized Mental Health Services" go above and beyond what is typically offered in a nursing home

Can not duplicate NF provided services

- Similar to waiver services
- Ex: CLS, Peer Support, Behavior Management Planning

Used to maintain psychiatric stability and prevent psychiatric decompensation

These are the services that should be included in the resident's care plan

Next steps

- The CMH has 5 business days from the date of determination to notify the nursing facility and resident/legal rep.
 - This includes providing the entire Level II and Determination Letter.
 - The cover sheet will show how long the current determination is valid for. The Determination Letter will show the next due date.
 - If the individual remains in the nursing facility, the nursing facility should submit a DCH-3877 for an ARR about 30 days prior to the determination expiring.
-
- ❖ A DCH-3877 is not required for a Re-Eval (REV)
 - See Sample Cover Sheet #2
 - The CMH is responsible for tracking this due date and initiating a Level II (REV) as the due date approaches.

Sample cover sheet #1

FOR DEPARTMENT OF HEALTH AND HUMAN SERVICES USE ONLY:

- ☐ Nursing Facility Services/No Mental Health Services
- ☒ Nursing Facility Services/Specialized Mental Health Services
- ☐ Nursing Facility Services/Other Mental Health Services
- ☐ No Nursing Facility Services/Specialized Mental Health Services
- ☐ No Nursing Facility Services/Other Mental Health Services
- ☐ No Nursing Facility Services/No Mental Health Services
- ☒ Requires Re-Evaluation in 363 Days

NO DETERMINATION REQUIRED:

1

-
- ☐ Discharged/No Determination Required
 - ☐ Does Not Meet Criteria for Serious Mental Illness, Intellectual Disability/Developmental Disability or Related Condition
 - ☐ Meets an Exception Criteria: _____
 - ☐ Has Decided Not To Enter A Nursing Facility
 - ☐ Has Expired

AUTHORIZATION SIGNATURE: Kathleen Johnson, LMSW

DATE: 09/28/2021

Sample Determination Letter



1. DETERMINATION: Nursing Facility - Specialized Mental Health Services.

2. RESULT OF THE DETERMINATION: The individual may continue to reside in a nursing facility and may choose to receive specialized mental health/developmental disabilities services. The local community mental health services agency will discuss with the individual, the individual's legal representative and the nursing facility a plan for the provision of specialized services.

3. REASON FOR THE DETERMINATION: The individual's physical, mental and psychosocial needs can be adequately met in a nursing facility provided specialized services are implemented.

If the above-named individual remains in the nursing facility, a Level II Evaluation is needed by September 27, 2022.

If you have any questions or concerns regarding the recommendation, content, or the determination please contact NSO-Older Adult Services (MI) at 248-817-7602.

You have the right to appeal this determination regarding your services. Please see enclosed instructions for more information on this process.

Sample cover sheet #2

FOR DEPARTMENT OF HEALTH AND HUMAN SERVICES USE ONLY:

- ☐ Nursing Facility Services/No Mental Health Services
- ☒ Nursing Facility Services/Specialized Mental Health Services
- ☐ Nursing Facility Services/Other Mental Health Services
- ☐ No Nursing Facility Services/Specialized Mental Health Services

1

Mary J Brown-Doe

- ☐ No Nursing Facility Services/Other Mental Health Services
- ☐ No Nursing Facility Services/No Mental Health Services
- ☒ Requires Re-Evaluation in 120 Days

NO DETERMINATION REQUIRED:

- ☐ Discharged/No Determination Required
- ☐ Does Not Meet Criteria for Serious Mental Illness, Intellectual Disability/Developmental Disability or Related Condition
- ☐ Meets an Exception Criteria: _____
- ☐ Has Decided Not To Enter A Nursing Facility
- ☐ Has Expired

Reviewer's Recommendation

Please work with guardian to consider placement in less restrictive environment.

AUTHORIZATION SIGNATURE: Ramiro Serna

DATE: 07/09/2019

*this is a cover letter from a sample Level II that contains no PHI

No Nursing Facility Specialized Mental Health Services



- These individuals may not be admitted to the nursing facility on a PAS.
- This determination suggests that the individual requires mental health treatment of an intensity as defined in Specialized Services and that they have no nursing needs, or their needs are such that they could be adequately met in a less restrictive environment. Additionally, this determination is given for individuals whose mental health symptoms are not able to be met in a nursing facility setting.
- The individual will be able to remain in the nursing facility only until an alternative placement is found
- There is a 12-month re-evaluation date with specialized mental health services if the determination is for someone that is already residing in the nursing facility. It is acknowledged that there are special circumstances and/or needs that might take longer to find the appropriate community placement that safely meets the individual's needs.

No Nursing Facility Other Mental Health Services



- These are individuals with a known serious mental illness and/or intellectual/developmental disability who require mental health services, but not ongoing skilled nursing needs.
- An individual for whom this determination has been made may not be admitted to the nursing facility or, if already admitted, will be subject to a safe discharge from the nursing facility. There is no established re-evaluation date.
- The PASRR legislation indicates that discharge plan must be a “safe and orderly discharge.” It is ultimately the nursing facility’s responsibility to pursue alternate placement and document that such efforts are underway.
- The CMHSP or their contract agency may participate in this discharge planning if the individual requires a CMHSP residential placement. Individuals with this determination who wish to remain in the nursing facility must file an Appeal to challenge the State OBRA’s determination. Once discharged, the individual will require a new Level II evaluation in order to readmit in the future.

TRANSFER TRAUMA – BORTON V. CALIFANO



613 F.2d 10

Simon NASH, Plaintiff-Appellant,

v.

**Joseph A. CALIFANO, Jr., Stanford Ross, Alan K. Campbell,
Robert L. Trachtenberg, Philip T. Brown, and
Wallace Tannenbaum, Defendants-Appellees.**

No. 556, Docket 79-6180.

**United States Court of Appeals,
Second Circuit.**

Submitted Dec. 18, 1979.

Decided Jan. 7, 1980.

TRANSFER TRAUMA

- **Transfer Trauma refers to a set of symptoms and outcomes that result from a transfer from one environment to another.**
- **Those individuals that have been determined to not have nursing needs but would likely suffer Transfer Trauma if discharged from the nursing facility, may receive the determination No Nursing Facility/Specialized Mental Health Services or No Nursing Facility/Other Mental Health Services with a Transfer Trauma designation.**
- **These individuals may remain in the nursing facility and Annual Resident Reviews must be completed.**
- **The individual must have had one year as a nursing facility resident.**

30 Month Rule

- Federal PASARR regulations provide that a long-term resident who requires Specialized Services, but who has been determined not to have nursing needs and has resided in the nursing facility continuously for thirty (30) or more months prior to the first No Nursing Facility/Specialized Services determination, may choose to remain in the nursing facility provided they agree to participate in Specialized Services.

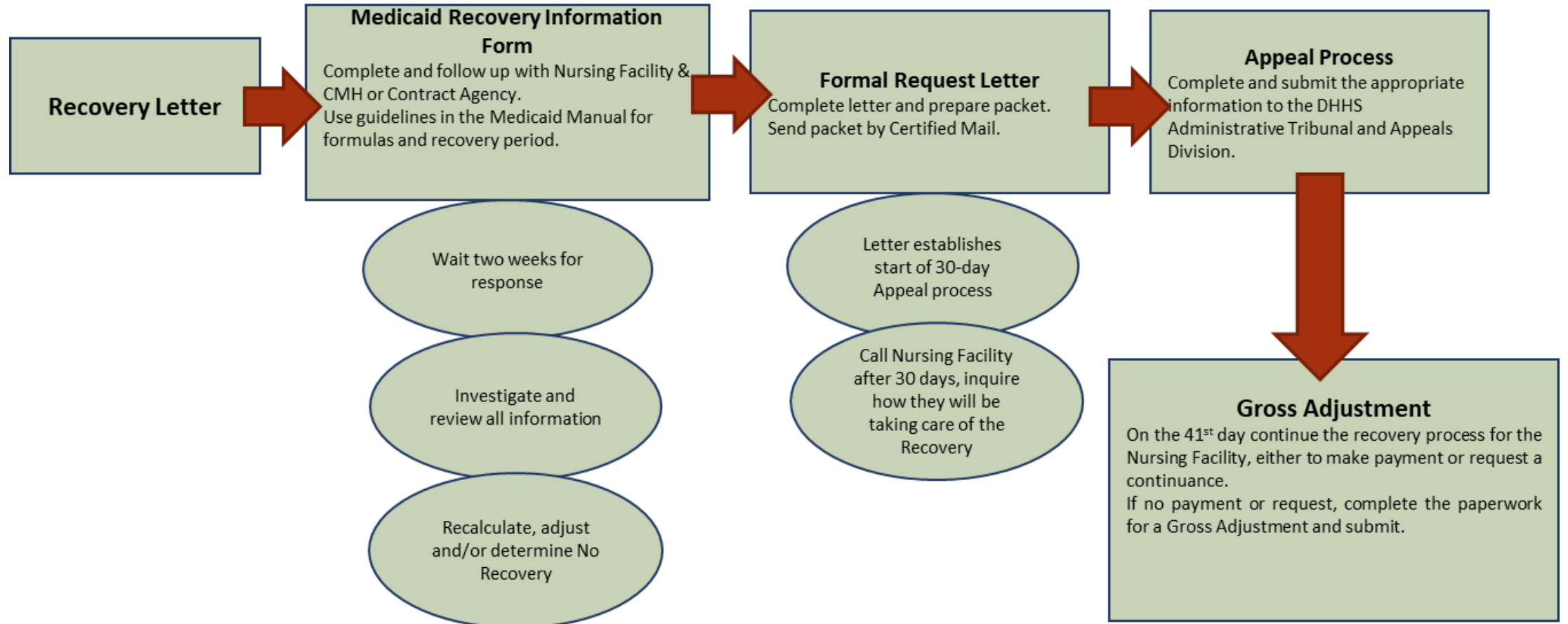
Establishment of OBRA Recovery Procedure

- In a letter issued to all Nursing Facility Administrators, dated February 2003, the then Michigan Department of Community Health Director reminded the administrators of the federal law pertaining to the admission of individuals with serious mental illness (MI) and/or intellectual or developmental disabilities (ID/DD) to a nursing facility (NF).
- They were also advised that Michigan Department of Health and Human Services (MDHHS), would be taking steps to recover payments made for incorrect admissions and/or timeliness issues related to the request and completion of the Level II Evaluations.
- This process for the recovery of Medicaid payments related to incorrect admissions, went into effect March 1, 2003.

The Recovery Process

- Determine if admission was done correctly and/or determine if the nursing facility failed to request a Level II Evaluation in a timely manner, following either a change in condition or the completion of a hospital exempted discharge.
- Determine the Medicaid status of the individual. If the individual is not Medicaid eligible, or no Medicaid funds were paid to the nursing facility during the established time period, then the recovery process will not continue, even if, step-one above occurred.
- Determine the amount of the Medicaid recovery and complete the necessary paperwork.
- Complete the Appeal Process, 30 days from receipt of Official Recovery Notice.
- Collect Medicaid funds.

OBRA Recovery Process Flow



What can be appealed?

- A Medicaid Recovery
- Must be filed within 30 days of the date on the Official Recovery Notice.
- A State OBRA Determination, Level of Mental Health Services and/or the content of the Level II evaluation.
- Must be filed within 30 days of the Certification of Delivery date.

References

- Current Federal Regulations:
 - <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-483/subpart-C>
- Proposed changes
 - <https://www.federalregister.gov/documents/2020/02/20/2020-03081/medicaid-program-preadmission-screening-and-resident-review>
- PASRR Technical Assistance Center
 - <https://www.pasrrassist.org/>
- Michigan PASARR Program
 - [OBRA - Specialized Nursing Homes \(michigan.gov\)](#)