OPERATIONS MANUAL

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Michigan Department of Health & Human Services

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Nick Lyon, Director

Office of Specialized Nursing Home/OBRA Programs
Division of Quality Management and Planning
Michigan Department of Health and Human Services

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CHAPTER 1

Nursing Home Reform Act of 1987

THE NURSING HOME REFORM ACT of 1987 (OBRA 1987)

When Congress enacted legislation in 1987 to strengthen the protection of nursing facility residents' rights, the new law was widely hailed as a major advance toward improving their quality of life. The aim of the legislation was to ensure that the care given to residents of nursing facilities would help them attain their highest level of health and well-being and assure that their rights as individuals would be respected by nursing facility staff.

The impetus for reform of nursing facility regulations has been spurred on by major demographic changes. With the aging of the population, the likelihood that more Americans will spend time in a nursing facility increases.

The 1987 legislation was the product of more than ten years of work by a coalition of advocates, nursing facility residents and their families, representatives of business and labor and nursing facility providers. The effort was spearheaded by the National Citizens Coalition for Nursing Home Reform which was organized in 1975.

Regulatory Background

The federal government's involvement with nursing facilities began in 1935 with the passage of the Social Security Act, which included a federal-state public assistance program for the elderly called Old Age Assistance. Many nursing facility residents were recipients of this public assistance. Regulatory efforts were minimal. The Senate Special Committee on Aging, created in 1961, held hearings in 1965 that uncovered great variations in state nursing facility standards and enforcement efforts.

Also, in 1965, the Medicare and Medicaid programs were enacted into law. To participate in the programs, nursing facilities were required to meet certain federal standards and procedures. Federal requirements at that time concentrated on two major areas: physical safety and written policies and procedures. Regulations for nursing facilities under Medicare and Medicaid became the responsibility of the Bureau of Health Standards and Quality under the federal Health Care Financing Administration (HCFA).

Despite these regulations, government officials and the general public were not satisfied that all nursing facilities were providing quality care to residents. The Senate Special Committee on Aging held hearings in the early 1970's that led to a series of reports in 1974 which were critical of federal regulatory efforts. Another set of regulations governing nursing facilities was put into place in 1974. However, consumer advocates contended that the standards were inadequate and enforcement was too lax.

In 1982, the Reagan Administration, as part of its efforts toward deregulation, proposed to ease requirements on Medicare and Medicaid certified nursing facilities.

Because consumer groups strongly objected and Congress threatened to enact a

moratorium on all federal rule making related to nursing facilities, the Administration abandoned its efforts toward deregulation. HCFA's next step was to commission the National Academy of Sciences Institute of Medicine (IOM) to study nursing facility regulations and make recommendations.

The Institute of Medicine Report

The IOM report issued in 1986 had an immediate and forceful impact on the debate over the need for nursing facility reform. The 415-page report concluded that nursing facility residents were receiving "shockingly deficient care" and that "more effective government regulation could substantially improve quality in nursing facilities". It contained a lengthy list of recommendations that included issues such as residents' rights, quality of care, staffing and training, and the survey and certification process. Many of the recommendations became the blueprint for nursing facility reform legislation enacted the following year.

The report called for a "major reorientation" of the regulatory system to "make it focus on the care being provided residents and the effects of the care on their well-being." This required revisions to nursing facility performance criteria and standards, the survey process, and enforcement policies and procedures. To participate in Medicare and Medicaid, nursing facilities would have to meet these revised conditions of participation and standards.

About six months before the IOM Report was released, the Department of Health and Human Services published a proposal, which included both a new outcome-oriented survey process based on interviews and direct observation of residents. Two months after the publication of the report, the Department issued its final regulations, and resident interviews became a key part of the survey and inspection process.

The Nursing Home Reform Law

The Nursing Home Reform Act (the Omnibus Budget Reconciliation Act of 1987) required nursing facilities to meet specific standards to qualify for Medicare and Medicaid reimbursement. The law required States to take into account the costs of the new law when setting Medicaid reimbursement rates for nursing facilities. The law also eliminated the distinction under Medicaid between a skilled nursing facility (SNF) and a basic or intermediate care facility (ICF), with all facilities now to be called "nursing facilities" (NF). The Medicaid Rules regarding long-term care facilities and the OBRA requirements were finalized in December 1992.

Medicare and Medicaid Programs: Reform of Requirements for Long Term Care Facilities (Commonly referred to as Final/Federal Rule)

On November 28, 2016, a new "Final Rule" was implemented by the Federal Government. It is to be implemented in 3 phases. The changes were necessary to reflect the

substantial advances that have been made over the past several years in the theory and practice of service delivery and safety. The revisions are also meant to achieve broad-based improvements both in the quality of health care furnished through federal programs, and in patient safety, while at the same time reducing procedural burdens on providers.

The following is a summary of the major provisions of the Nursing Home Reform Law and the Final Rule.

Requirements for Care

- Nursing facilities must conduct a comprehensive assessment, completed within 14 days after a resident is admitted, of the condition of every person admitted and develop a written plan of care, within 7 days of completing a comprehensive assessment, describing the medical, nursing and psychosocial needs of the resident and indicate how those needs will be met.

- At least once a year, an assessment must be made regarding each resident's ability to perform daily living activities, such as dressing and eating.

- As of April 1, 1990, states must conduct preadmission screenings and annual resident reviews to determine whether persons with mental illness or intellectual disability/developmental disability or related condition are appropriately placed. Individuals identified as having a mental illness and/or intellectual disability must not be placed or remain in the facility unless they also need nursing care or meet criteria for Transfer Trauma (Chapter 3) or the thirty (30) Month Exception (Chapter 5). If a resident with a mental illness or intellectual/developmental disability or related condition remains in the nursing facility, he or she must be offered appropriate mental health services.

- As of June 1996, the federal government removed the requirement that the state conduct annual resident reviews. The states must continue to complete Pre-admission screenings, hospital exempted discharges, and change in condition resident reviews. The State of Michigan chose to continue the annual resident review process.

- Facilities must provide or arrange for the following services: physician, nursing, rehabilitative, pharmaceutical, dietician, dental and medically related social services or other appropriate needs. A program of activities that includes the resident's interests and abilities must be offered.

- The same quality of services must be provided to all residents, regardless of their source of payment.

Residents' Rights

When admitted to a nursing facility, residents are to be informed both in writing and verbally of their legal rights, which include the rights to:

- Choose one's own physician, (the physician must be licensed to practice medicine in the state where the resident resides, and must meet professional credentialing requirements of the facility), and be consulted on a plan of care, including the right to refuse treatment.
- Be free from chemical and physical restraints (483.12 & 483.25 (d) (1)) http://www.cms.gov/medicare/provider-enrollment-and-certification/certificationand compliance/downloads/2012-nursing-home-action-plan.pdf
- Enjoy privacy and confidentiality of personal and medical records and protection of personal funds
- Voice grievances without fear of reprisal and gain prompt attention and resolution of those grievances. There should be a grievance officer and residents should be aware of how to file a grievance.
- Organize and participate in residents' groups, with family members able to meet in family groups
- Have access to the nursing facility's federal and state surveys reports and to a local or state long term care ombudsman
- Receive services with reasonable accommodations of individual needs and preferences
- New section to Federal Rule, 483.10 (d) (5), to specify that a resident has the right to share a room with his or her roommate of choice, when both residents live in the same facility, both residents consent to the arrangement, and the facility can reasonable accommodate the arrangement.
- Be free from abuse, neglect, and exploitation (483.12)

Staffing and Training

- Facilities must have at least one registered nurse on duty eight hours a day, seven days a week and a licensed nurse on duty twenty-four hours a day, seven days a week. The Final Rule adds: must have "sufficient staff", with appropriate competencies and skill sets, to meet residents' needs and provide appropriate care

to residents with mental illness and cognitive impairment. There is a competency requirement for determining sufficient nursing staff based on a facility assessment taking into account acuity and LOC.

- States may waive the nurse staffing requirements if a facility can show diligent, but unsuccessful, efforts to recruit required personnel.

- Facilities with more than 120 beds must employ at least one full-time Social
- Worker.

- Nurses' aides or nursing assistants must undergo and pass at least 75 hours of approved training and pass a competency evaluation. States must develop and maintain registries of those aides who have satisfied the requirements and any aides who have been found to have abused or neglected residents. The Final Rule adds that training topics must include: communication; resident rights and facility responsibilities; abuse, neglect and exploitation; QAPI and infection control; and annual compliance and ethics. Annual in-service training shall include dementia management and resident abuse prevention as well as behavioral health training.

Survey and Certification

- States must conduct unannounced "standard" surveys of nursing facilities at least once a year, but no less often than every 15 months. An "extended" survey will be carried out at any facility found to be providing substandard care.

- Surveys are to include an audit of a sample of resident assessments and interviews with residents to determine the quality of care being provided.

- States must set up procedures to investigate complaints about violations of standards.

Enforcement and Sanctions

- The state or federal government can immediately appoint a temporary manager or end a facility's participation in Medicare or Medicaid if a facility is found to be out of compliance and to be posing a danger to the health or safety of its residents.

- Intermediate sanctions can be applied to facilities that are out of compliance but that are not jeopardizing the health and safety of residents. Those sanctions include: denial of payment for new Medicare and/or Medicaid admissions, civil penalties of up to $10,000 a day for each day the facility is out of compliance and appointment of a temporary manager.

- Denial of payment for new admissions will be automatic if a nursing facility is found to be out of compliance for three consecutive months

Michigan Department of Health and Human Services Implementation of the OBRA PASARR Requirements

April 1990 Nursing facilities must have completed DCH 3877's and DCH 3878's form on all residents and refer them to the local CMHSP's for possible Level II Evaluations.

June 1996 Michigan opted not to discontinue Annual Resident Reviews when given the choice by the Federal changes in PASARR

November 2003 Michigan began enforcement of the OBRA provisions denying Medicaid funds to nursing facilities that are not in compliance with the OBRA PASARR requirements.

Michigan narrowed the definition of persons with mental illness requiring only those who present with a Serious Mental Illness to continue to have a PASARR Level II Evaluation, unless Level II deemed necessary by the OBRA Coordinator.

March 2008 Michigan narrowed the definition of persons requiring an Annual Resident Review to those individuals who presented with a Serious Mental Illness or Intellectual Disability /Developmental Disability or Related Condition who were also receiving mental health services from the public mental health system or private practitioner.

March 2010 Michigan evaluated the implementation of the above narrowing of the definition and instilled the policy that all individuals who present with a Serious Mental Illness and or intellectual Disability Developmental Disability or related condition receive an Annual Resident Review regardless of provider of mental health services, unless the previous year's determination was Nursing Facility, No Mental Health Services.

August 2015 The OBRA Department was moved to the Division of Quality Management and Planning under the Federal Compliance Division.

December 2016 The OBRA Department moved to a web based electronic database record

The MDHHS OBRA Office will be closed in observance of the following holidays:

New Year's Eve

New Year's Day

Martin Luther King Jr Day

President's Day

Memorial Day

Independence Day

Labor Day

Election Day (First Tuesday in November, even numbered years)

Veteran's Day

Thanksgiving Day and the Friday following Christmas Eve

Christmas Day

CHAPTER 2

Level I Process

THE LEVEL I PROCESS

The MDHHS Level I Screen and Preadmission Screen**/**Annual Resident Review (PAS/ARR) Level II is a two **tiered** screening and evaluation process. The Level I Screen identifies individuals who may have a mental illness or intellectual disability/developmental disability or related conditions. The Level I Screen consists of a DCH-3877 Form and, when applicable, a DCH-3878 Form. The Level II is an evaluation that clinically assesses those individuals to determine the need for nursing facility services and mental health services.

A Level I (DCH-3877) must be completed for all individuals prior to admission to a Medicaid-certified nursing facility, regardless of the source of payment for the nursing facility stay.

All individuals identified by a Level I Screen as possibly having a serious mental illness or intellectual disability/developmental disability or related condition must receive a Level II Evaluation and determination **prior** to admission to a nursing facility, unless they meet one of the following exemption criteria: coma, dementia or hospital exempted discharge. **A DCH-3878 must be completed prior to admission identifying the exemption criteria claimed.**

A Level I Screen (DCH-3877) must be completed annually for all residents of nursing facilities.

All nursing facility residents identified on the Level I Screen (DCH-3877) as possibly having a serious mental illness or intellectual disability/developmental disability or a related condition, must receive an Annual Resident Review (ARR) Level II Evaluation unless the year prior they received a Nursing Facility, No Mental Health Services Determination from the MDHHS OBRA Office and there has been no significant change in condition or the individual meets an exemption criteria of coma or dementia.

Remember: Dementia cannot be utilized as an exemption for those individuals with an intellectual disability or development disability diagnosis or related condition.

The Level I process for identifying individuals who may have a mental illness or intellectual disability/developmental disability or related condition may be initiated by various entities. The Level I (DCH-3877) may be completed by hospitals as part of the discharge planning process, by physicians seeking to admit individuals to nursing facilities from other than acute-care settings, by nursing facilities conducting ARRs, and/or in response to condition changes or by any other entity that may be assisting a person in obtaining nursing facility admission. The only time a community mental health (CMHSP) staff person should initiate the Level I is when they are seeking placement on behalf of

one of their own consumers from a community setting into a nursing facility. OBRA Coordinators should not complete the DCH-3877 for consumers serviced by them. All other Level I's should be initiated by the referral source (PAS) or nursing facility (ARR).

The Level II Evaluation is indicated if a Level I Screen identifies an individual who may have a mental illness or intellectual disability/developmental disability or related condition by responding "Yes" to any of the six (6) questions on the DCH 3877. However, a Level II Evaluation will not be required if the individual is granted an exemption to the evaluation. Exemptions to the Level II Evaluation can be granted for the following situations:

- Coma
- Primary diagnosis of dementia (only individuals with mental illness), or
- Hospital exempted discharge after a hospital admission.

NOTE: The Dementia Exemption does not apply to persons identified as having an intellectual disability or a developmental disability.

The Hospital Exempted Discharge cannot be utilized from a Psychiatric Unit, Psychiatric Hospital, Observation Bed, Emergency Department, Consumer's Home, AFC or Assisted Living Facility.

EXEMPTIONS TO THE LEVEL I PROCESS

Readmissions and Inter-facility Transfers: The Level I Screen will not be required prior to admission in the following situations: (even if one was never completed)

- ******Readmission to a nursing facility after a hospital stay, or
- An inter-facility transfer with or without an intervening hospital stay
- An individual transfers to a Michigan nursing facility from an out of state nursing facility

However, if an ARR Level I review date occurs during a period of hospitalization, the Level I Screen must be completed within thirty (30) days of admission or readmission to the nursing facility **AND a referral made to the CMHSP for the ARR Level II Evaluation.**

Therapeutic Leave: A resident returning from therapeutic leave does not require a PAS unless the resident's condition has changed. Therapeutic leave does not

change the due date for the ARR. Advanced planning may be necessary to ensure timeliness of the review.

<u>Psychiatric Hospitalizations</u>: The MDHHS OBRA staff strongly recommends and encourages the completion of the PAS Level II Evaluation prior to the individuals return to the nursing facility from an inpatient psychiatric hospitalization.**

The nursing facility may also request a PAS Level II Evaluation on an individual prior to their return from an inpatient psychiatric hospitalization.

The DCH-3877 is used to identify prospective and current nursing facility residents who meet the criteria for possible mental illness or intellectual disability/developmental disability or related condition and who may be in need of mental health services. **It must be completed by a registered nurse, licensed bachelor or master of social work, licensed professional counselor, limited licensed bachelor social worker, psychologist, physician's assistant or physician.**

<u>WHEN TO COMPLETE THE DCH-3877</u>

Preadmission Screen: The DCH-3877 must be completed by hospitals as part of the discharge planning process or by a community mental health services program (CMHSP) staff, home care agencies or physicians seeking to admit an individual to a nursing facility from other than an acute care setting. The DCH-3877 must be completed prior to admission to the nursing facility. The agency completing the Level I must provide a copy to the proposed nursing facility **PRIOR TO ADMISSION**. If there is a "yes" response on the DCH-3877, this form must also be sent to the CMHSP for possible need for the Level II Evaluation.

Annual Resident Review: The DCH-3877 must be completed by the nursing facility staff for all residents on an annual basis. Efforts should be made to coordinate this with the Minimum Data Set (MDS) process.

Change in Condition: The DCH-3877 must be completed by the nursing facility staff when there is a change in the individual's mental status which would trigger a "YES" response on the DCH-3877 **or the individual displays symptoms related to a new mental health diagnosis (excluding dementia), experiences an acute psychiatric episode, or there is an introduction of a psychotropic medication for behavior or symptom control. A significant change in the individual's level of functioning, such that it would indicate a change in the need for nursing facility level of care, would also trigger a Change in Condition.**

HOW TO COMPLETE THE DCH-3877

*******All Blanks Must Be Filled In**

Section I

On the top right corner indicate whether the Level I Screen is a Preadmission Screen (PAS), Annual Resident Review (ARR), Change in Condition (CIC), or Hospital Exempted Discharge (HED).

Legal Representative: information should be verified by the person completing the Level I through guardianship papers or activated durable power of attorney (DPOA) papers.

The nursing facility name, address and admission date need to be completed. For a Preadmission Screen, this information may not be available at the time the DCH-3877 is completed but should be filled in before placement occurs.

NOTE: Throughout this document where "developmental disability/intellectual disability" is used, it also refers to "related condition"

Section II

Answer **ALL** six items by checking the "Yes" or "No" box for each item. Information should be obtained from the medical record as well as from the individual, legal representative and/or family.

1. The person has a current diagnosis of mental illness or dementia

Circle **mental illness OR dementia** if "YES" for any item.

Current diagnosis means that a physician/clinician has established a diagnosis of a mental disorder within the past twenty-four (24) months. A Mental Disorder is defined in the most current DSM. **Do not mark "YES" for an individual cited as having a diagnosis by history only.**

2. The individual has received treatment for mental illness or dementia within the past twenty-four (24) months.

Treatment for mental illness or dementia means any of the following interventions: inpatient psychiatric hospitalization; outpatient services such as psychotherapy, day programming or mental health supports coordination; psychiatric consultation or evaluation or prescription of psychopharmacologic medications.

3. The individual has routinely received one or more prescribed antipsychotic or antidepressant medications within the last fourteen (14) days.

Answer "YES" when:

- The individual is routinely or regularly receiving any of the antipsychotic or antidepressant medications. Examples of these two categories of medications can be found in the Medicaid Provider Manual.
- The medication order is written as a PRN, but the individual is actually receiving the medication on a routine basis.
- The individual is receiving one of the identified medications, but for a documented reason other than the treatment of mental illness or dementia.

NOTE: An explanation of the prescribed use of the medication must be provided in the space "Explain Any Yes" below. It is suggested that a physician's statement or progress note verifying this use of medication be provided to the nursing facility and be placed in the chart.

Answer "NO" when:

- The individual is receiving a medication that is not an antidepressant or antipsychotic.

- The medication order is written as routine or PRN, but the individual was never given the medication.

4. There is presenting evidence of mental illness or dementia, including significant disturbances in thought, conduct, emotion 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.

Presenting evidence means the individual currently manifests symptoms of a mental illness or dementia which suggests the need for further evaluation to establish causal factors, diagnosis and treatment recommendations (i.e. suicidal ideations, hallucinations, delusions, serious difficulty completing tasks, or serious difficulty interacting with others). Change in Condition referrals will most often trigger a "YES."

5. The individual has a diagnosis of an intellectual/ developmental disability or related condition including but not limited to: epilepsy, autism or cerebral palsy, and this diagnosis manifested before the age of twenty two (22).

To meet the definition of a developmental disability, each of these four (4) Criteria ***must*** be met:

- It is manifested before the individual reaches the age of twenty-two (22).
- It is likely to continue indefinitely.
- It results in substantial functional limitations in THREE (3) or more of the following areas of major life activities:

  Self-care
  Mobility
  Understanding and use of language
  The capacity for independent living
  Learning
  Self-direction
  Economic self sufficiency

It is attributable to:

a. Intellectual disability such that the person has significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

b. Cerebral palsy, epilepsy, autism (which were profound enough to have interfered with normal growth and development).

c. Or any condition *other than mental illness* found to be closely related to intellectual disability because this condition results in impairment in general intellectual functioning or adaptive behavior similar to that of persons with intellectual disability and requires treatment or services similar to those required for those persons.

6. There is presenting evidence of deficits in intellectual functioning or adaptive behavior, which suggests that the person may have intellectual disability or a related condition. These deficits appear to have manifested before the age of twenty-two (22).

Presenting evidence means that the individual manifests deficits in intellectual functioning or adaptive behavior **prior to the age of twenty- two (22)** which suggests the need for further evaluation to determine the presence of a developmental disability, causal factors and treatment recommendations.

A closed head injury must occur **prior to the age of twenty-two (22)** and interfere with the normal developmental stages.

EXPLAIN ANY YES: Use this section to elaborate on any of the above answers, such as where the diagnosis was established, nature or extent of treatment, **use of psychotropic medications for medical purposes,** etc. For "Change in Condition" referrals, identify the triggering behaviors, etc.

SECTION III

The DCH 3877 must be signed by a **registered nurse, licensed bachelor or master of social work**, **licensed professional counselor, limited licensed bachelor social worker, psychologist, physician's assistant or physician**.

The person should identify their credentials. The person's name must be printed/typed and be legible.

The date must be completed as this date could be used to identify the "Referral Date" for the Level II Evaluation or to determine if the DCH-3877 was completed prior to admission.

WHAT TO DO WITH THE DCH-3877 ONCE COMPLETED

1. **If all responses are "No"**

    a. The nursing facility must receive the original
    b. The individual and/or legal representative should receive a copy

2. **If there is a "Yes" response, and no Exemption**

    a. The nursing facility/hospital sends the DCH-3877 to the CMHSP for possible need for the Level II Evaluation
    b. If there is a legal representative, send documentation that verifies legal representation to the CMHSP
    c. Give a copy to the individual and/or legal representative

3. **If there is a "Yes" response, and an Exemption to the Level II Evaluation is sought**

    a. Complete the DCH-3878
    b. The original DCH-3877 and DCH-3878 must be retained by the nursing facility
    c. A copy of the DCH-3877 and DCH-3878 must be sent to the local CMHSP
    d. Copies of both forms must be given to the individual and/or legal representative

LEVEL I SCREEN: CLAIMING EXEMPTIONS

INSTRUCTIONS FOR COMPLETING DCH-3878 – Mental Illness/Intellectual Disability/Related Condition Exemption Criteria Certification (For Use in Claiming Exemption only)

The DCH-3878 is to be used **ONLY WHEN A PERSON IDENTIFIED** on a DCH-3877 as needing a Level II Evaluation **MEETS ONE OF THE SPECIFIED EXEMPTIONS**. If the individual under consideration meets one of the following exemptions, he/she may be admitted without a Preadmission Screen (PAS). However, a completed copy of the DCH-3878 must be attached to the DCH-3877 and sent to the local community mental health services program (CMHSP).

The nursing facility must retain the original DCH-3877 and DCH-3878 in the medical record and a copy must go to the individual and/or their legal representative.

The DCH-3878 may be completed by a **registered nurse, licensed bachelor or master of social work, licensed professional counselor, psychologist, physician's assistant or physician, but MUST BE CERTIFIED AND SIGNED BY A PHYSICIAN OR PHYSICIAN'S ASSISTANT**.

Complete the following information to match the DCH-3877: Individual name, date of birth and referring agency (including address and telephone number).

Indicate which exemption applies to the individual under consideration (check only one). If no Exemption is indicated or form is **not properly signed and dated**, this form may be considered invalid and could lead to the loss of Medicaid funding for the nursing facility.

COMA: Includes persistent vegetative state.

DEMENTIA: Review the five (5) criteria listed under the Dementia Exemption. DO NOT check this exemption **UNLESS** the individual has a Primary Psychiatric Diagnosis of Dementia and **MEETS ALL FIVE (5) CRITERIA.** Any individual who meets some, but not all five (5), criteria will be subject to a Level II Evaluation. If the person under consideration meets this exception category, please specify the type of Dementia on the line provided.

NOTE: **The Dementia Exemption does not apply to those persons with a diagnosis of intellectual/developmental disabilities or related condition.**

Exempt Dementia diagnoses are limited to: Dementia of the Alzheimer- Type, Vascular Dementia, Dementia due to Other General Medical Condition, Substance- Induced Persisting Dementia or Dementia NOS. (These diagnoses are provided on the reverse side of the DCH-3878). Enter the appropriate dementia diagnosis on the "Specify Diagnosis" line.

 **Do not include medical diagnoses on this line.**

The person must meet the following five (5) criteria for dementia:

1. Has demonstrable evidence of impairment in short or long-term memory.

2. Exhibits at least one of the following:
    a. *Impairment of abstract thinking
    b. *Impaired judgment
    c. *Other disturbances of higher cortical function
    d. *Personality change

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.

5. Either:

    a. Medical history, physical exam or lab test show evidence of a specific organic factor judged to be etiologically related to the disturbance

    OR

    b. 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.

HOSPITAL EXEMPTED DISCHARGE: Review the three criteria listed under this exemption category. **DO NOT CHECK** this exemption **UNLESS** the individual **MEETS ALL THREE CRITERIA**.

1. The individual will be admitted to a nursing facility directly from a hospital after receiving acute inpatient care at the hospital. (Treatment in an emergency room **or *a hospital's observation unit is not*** considered a hospital stay. An individual who received inpatient treatment in a psychiatric facility cannot be admitted to a nursing facility claiming this exemption, nor can an individual who comes directly from home or any other community placement) **and**

2. The individual requires nursing facility services for the condition for which he/she received care in the hospital, **and**

3. The attending physician or physician's assistant has certified before admission to the nursing facility that the individual is likely to require less than thirty (30) days of nursing services.

Note: The OBRA Coordinators must upload the admitting DCH-3877 and DCH-3878 on all individuals having a first-time Level II Evaluation. If these forms are not found in the nursing facility file, please indicate, in detail, in the Psychosocial Assessment, Section A.

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

☐ **PAS**
☐ **ARR**
☐ **Change in condition**
☐ **Hospital Exempted Discharge**

SECTION I – Patient, Legal Representative and Agency Information

Patient Name (first, MI, last)			Date of birth (M/D/Y)	Gender ☐ **Male** ☐ **Female**
Address (number and street)			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? ☐ **No** ☐ **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 assistance or a physician.

SECTION II – Screening Criteria (All 6 items must be completed.)

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

Note: If you check "YES" to items 1 and/or 2, circle the word "**Mental Illness**" 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 or physicians' 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 – –
AUTHORITY: Title XIX of the Social Security Act **COMPLETION:** Is voluntary, but, if NOT completed, Medicaid will not reimburse the nursing facility.			The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

DISTRIBUTION: If any answer to questions 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. 9-16) Previous edition obsolete. 1

PREADMISSION SCREENING (PAS)/ANNUAL RESIDENT REVIEW (ARR)
Mental Illness / Intellectual Disability / Related Conditions Identification

Instructions for DCH-3877

The DCH-3877 is used to identify prospective and current nursing facility residents who meet the criteria for possible mental illness or intellectual disability, or a related condition and who may be in need of mental health services.

Sections II and III must be completed by a registered nurse, licensed bachelor or master social worker, licensed professional counselor, psychologist, physician's assistant, or physician.
Preadmission Screening: The DCH-3877 must be completed by hospitals as part of the discharge planning process or by physicians seeking to admit an individual to a nursing facility from other than an acute care setting. **Check the PAS box.**
Annual Resident Review: The DCH-3877 must be completed by the nursing facility. **Check the ARR box.**
Section II – Screening Criteria – All 6 items on the form must be completed. The following provides additional explanation of the items.
1. Mental Illness: A current primary diagnosis of a mental disorder as defined in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

Current Diagnosis means that a physician has established a diagnosis of a mental disorder within the past 24 months. Do NOT mark "YES" for an individual cited as having a diagnosis "by history" only.
2. Receipt of treatment for mental illness or dementia within the past 24 months means any of the following: inpatient psychiatric hospitalization; outpatient services such as psychotherapy, day program, or mental health case management; or referral for psychiatric consultation, evaluation, or prescription of psychopharmacological medications.

3. Antidepressant and antipsychotic medications mean any currently prescribed medication classified as an antidepressant or antipsychotic, plus Lithium Carbonate and Lithium Citrate.

4. Presenting evidence means the individual currently manifests symptoms of mental illness or dementia, which suggest the need for further evaluation to establish causal factors, diagnosis and treatment recommendations. Further evaluation may need to be completed if evidence of suicidal ideation, hallucinations, delusion, serious difficulty completing tasks or serious difficulty interacting with others.

5. Intellectual Disability / Related Condition: An individual is considered to have a severe, chronic disability that meets **ALL** four (4) of the following conditions:

a. It is manifested before the person reaches **age 22**.
b. It is likely to continue indefinitely.
c. It results in substantial functional limitations in **3 or more** of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.
d. It is attributable to:
• Intellectual Disability such that the person has significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;
• cerebral palsy, epilepsy, autism; or
• any condition other than mental illness found to be closely related to Intellectual Disability because this condition results in impairment in general intellectual functioning OR adaptive behavior similar to that of persons with Intellectual Disability, and requires treatment or services similar to those required for these persons.

6. Presenting evidence means the individual manifests deficits in intellectual functioning or adaptive behavior, which suggests the need for further evaluation to determine presence of a developmental

disability, causal factors, and treatment recommendations. These deficits appear to have manifested before the age of twenty-two (22).

NOTE: **When there are one or more "YES" answers to questions 1 – 6 under SECTION II, a Mental Illness / Intellectual Disability / Related Condition Exemption Criteria Certification, DCH-3878 must be completed only if the referring agency is seeking to establish exemption criteria for a dementia, state of coma, or hospital exempted discharge.**

MENTAL ILLNESS/INTELLECTUAL DISABILITY/RELATED CONDITION EXEMPTION CRITERIA CERTIFICATION

Michigan Department of Health and Human Services
(For Use in Claiming Exemption Only)

INSTRUCTIONS:

- This form must be completed by a registered nurse, licensed bachelor or master social worker, licensed professional counselor, psychologist, physician's assistant or physician and signed and dated by a physician's assistant or physician.
- The patient being screened shall require a comprehensive LEVEL II evaluation UNLESS any of the exemption criteria below is met and certified by a physician's assistant 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 the 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.
5. **EITHER:**
   a) Medical history, physical exam and/or lab tests show evidence of a specific organic factor judged to be etiologically related to the disturbance **OR**
   b) 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.

☐ **HOSPITAL EXEMPTED DISCHARGE:**

YES, I certify that the patient under consideration:

1) is being admitted after a hospital stay, **AND**
2) requires nursing facility services for the condition for which she/he received hospital care, **AND**
3) is likely to require less than 30 days of nursing services.

Physician/Physician Assistant Signature	Date	Name (Typed or Printed)
		Telephone Number

AUTHORITY: Title XIX of the Social Security Act **COMPLETION:** Is voluntary, but, if NOT completed, Medicaid will not reimburse the nursing facility.	The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

COPY DISTRIBUTION: **ORIGINAL**- Nursing Facility retains in Patient file
COPY - Attach to form DCH-3877 and send to Local CMHSP
COPY - Patient Copy or Legal Representative

DCH-3878 (Rev. 9-16) Previous edition obsolete. 1

Instructions for DCH-3878

The **DCH-3878** is to be used ONLY when the individual identified on a **DCH-3877** as needing a LEVEL II evaluation meets one of the specified exemptions from LEVEL II evaluation. If the individual under consideration meets one of the following exemptions, she/he may be admitted (under preadmission evaluation) or retained (under Annual Resident Review) at a nursing facility without additional evaluation. However, a completed copy of the **DCH-3878** must be attached to the **DCH-3877** and sent to the local Community Mental Health Services Program (CMHSP).

This form must be completed by a registered nurse, licensed bachelor or master social worker, licensed professional counselor, psychologist, physician's assistant, or physician, **and signed and dated by a physician's assistant or physician**.

Complete the following information to match the **DCH-3877**: Patient Name, DOB, and Referring Agency (including agency address and telephone number).

Use an **"X"** to indicate which exemption applies to the individual under consideration.

DEMENTIA:

- Review the 5 criteria listed under the dementia exemption category. Do NOT check this exemption unless the individual meets all 5 criteria. Any individual who meets some, but not all 5 criteria will be subject to a LEVEL II evaluation. If the individual under consideration meets this exemption category, specify the type of dementia.

- Do not mark the Dementia Exemption if there is a primary diagnosis of a serious mental illness. Do not mark Dementia Exemption if there is a diagnosis of intellectual disability, developmental disability or a related condition.

Dementia diagnoses include the following:

1. Dementia of the Alzheimer's Type
2. Vascular Dementia
3. Dementia due to Other General Medical Conditions
4. Substance - Induced Persisting Dementia
5. Dementia Not Otherwise Specified

CHAPTER 3

Level II Process

THE LEVEL II PROCESS

Persons who are identified on the Level I Screen by any "YES" answer on the DCH-3877 and who do not meet exemption criteria **must** be referred to the local CMHSP for the possible need of a Level II Evaluation. The Level II Evaluation is conducted by the CMHSP under contract with the Michigan Department of Health and Human Services (MDHHS). MDHHS bases the determination of the need for Nursing Facility Services and/or Specialized Mental Health Services from the information in the Level II Evaluation. Evaluations completed under PAS/ARR and the explanation of that Evaluation must be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated. This may require the use of an interpreter, other than a family member.
This may cause a delay in the completion of the Level II Evaluation due to scheduling an interpreter.

 **NOTE: For a Preadmission Screen, the evaluator must ascertain if the individual or the individual's legal representative wishes the person to be admitted to the nursing facility (NF) before completing the Evaluation. The CMHSP, hospital, physician or family may not request a Level II Evaluation without the individual's or legal representative's consent and agreement to nursing facility placement.**

PAS/ARR Evaluations must involve:

- The individual being evaluated;
- The individual's legal representative (guardian or activated DPOA), if one has been designated under State law;
- The individual's family, if available, when the individual or the individual's legal representative agrees to family participation; and
- The CMHSP personnel, if the individual is receiving mental health services.

For Michigan PASARR purposes, individuals requiring a Level II Evaluation will be considered seriously mentally ill if one of the following two (2) situations exists:

1. 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:

   The individual has a major mental disorder diagnosable under the Diagnostic and Statistical Manual of Mental Disorders. This would include –

   a. Schizophrenia
      Schizo-Affective Disorders

Psychotic Disorders
Major Depressive Disorders
Bipolar Disorders
Severe Personality Disorders
Severe Anxiety Disorders

b. 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.

Within the last year, due to the mental disorder, experienced an episode of significant disruption to the normal living situation, for which supportive services from CMHSP or another qualified mental health professional were required to maintain functioning in the current placement.

2. 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. Please give specifics as to why this diagnosis is considered serious.

DEFINITIONS OF MENTAL ILLNESS

Non Serious Persistent

Symptoms (e.g., sleep disturbances, social isolation, appetite disturbances, etc.) which are transient (persisting no more than three to six months) and common reactions to psychosocial stressors (e.g., change of living arrangements, loss of spouse, loss of health, loss of independence, etc.). These symptoms result in no more than slight impairment in bio/psycho/social functioning.

Less Than Serious Mental Illness

Symptoms (including delusions, hallucinations, impaired judgment and problems in thinking, communication, or mood) which have resulted in moderate to serious impairment in bio/psycho/social functioning, but which are currently minimized or effectively addressed by medications or staff interventions. These symptoms have persisted for more than six months.

Serious Mental Illness

Symptoms (including delusions, hallucinations, impaired judgment and problems in thinking, communication, or mood) which have resulted in serious impairment in bio/psycho/social functioning. These symptoms are of recent onset; have recently increased in severity or frequency; or, are not effectively addressed by medications or staff interventions. As defined above.

Serious Mental Illness (Acute Crisis)

A time-limited episode in which the person displays symptoms (e.g., suicide risk, violent or manic behavior) which poses a danger to self or others and places the person at risk of psychiatric hospitalization or loss of living situation.

Evaluations must meet the following Federal criteria:

For each applicant for admission to a nursing facility and each nursing facility resident who has a serious mental illness or intellectual disability/developmental disability or related condition, the evaluator must assess whether:

- The individual's total needs are such that his/her needs can be met in an appropriate community setting.

- The individual's total needs are such that they can be met only on an inpatient basis, which may include the option of placement in a home and community-based waiver program, but for which the inpatient care would be required.

- If inpatient care is appropriate and desired, the nursing facility is an appropriate institutional setting for meeting those needs.

- If another setting, such as Intermediate Care Facility for the Intellectual Disability (ICF/MR), including small, community-based facilities, an Institution for Mental Disease (IMD) providing services to individuals aged 65 or older, or a psychiatric hospital is an appropriate institutional setting for meeting these needs.

Based on the evaluation performed by the CMHSP, the MDHHS OBRA staff must determine whether the individual meets the criteria for a Serious Mental Illness or Intellectual Disability/Development Disability or related condition, requires nursing facility services and whether the individual requires Specialized Mental Health Services or Other Mental Health Services. The MDHHS OBRA staff must consider the individual's physical and mental health needs, taking into account the severity of each condition and whether the individual's treatment needs can be met in a nursing facility.

At a minimum, the data relied on to make a determination will include the following:

- Evaluation of the individual's physical status (including results of a physical examination, diagnoses, current treatment and medications, medical and drug history and nutritional status).

- Evaluation of the individual's mental status (including a psychosocial assessment and a psychiatric assessment).

- Evaluation of the individual's functional assessment (including assessment of the individual's ability to engage in activities of daily living, to self-medicate and to self- monitor health status).

- Individuals who are believed to be intellectually disabled or with a related condition, assessments in the areas of vocational skills, educational development, communication, independent living skills and sensorimotor development.

The local CMHSP will notify, in writing, the individual and the individual's legal representative, attending physician, nursing facility, and discharging hospital (if applicable) of the results of the Level II evaluation, the MDHHS determination and the appeal process information within five(5) days of the determination.

If the facility does not receive a written determination within thirty (30) days of an admission, the facility must send a written reminder to the CMHSP and the MDHHS OBRA Office within forty-five (45) days of the admission. A copy of this notification must be retained in the resident's medical record.

The time frame for completing the Level II Evaluation:

PAS	The CMHSP has **four (4) working days**, starting from the date the DCH-3877 is received by the CMHSP to the date the Level II Evaluation is received by the MDHHS OBRA Office. The DCH-3877 and DCH-3878 **must be date stamped** with the date received by CMHSP.
ARR	The CMHSP has **fourteen (14) calendar days**, starting from the date the DCH-3877 is received by the CMHSP to the date the Level II Evaluation is received by the MDHHS OBRA Office. The DCH-3877 **must be date stamped** with the date received by CMHSP.
CHANGE IN CONDITION	The CMHSP has **fourteen (14) calendar days**, starting from the date the DCH-3877 is received by the CMHSP to the date the Level II Evaluation is received by the MDHHS OBRA Office. The DCH-3877 and DCH-3878 **must be date stamped** with the date received by CMHSP.
HOSPITAL EXEMPTED DISCHARGE	If the individual needs nursing care beyond the thirty (30) days permitted by a Hospital Exempted Discharge, the Nursing Facility must notify the local CMHSP that the Level II Evaluation is needed at least five (5) working days before the end of the thirty (30) day stay. The nursing facility must provide the CMHSP with the admitting DCH-3877 and DCH-3878, which invoked the exemption. **It is not necessary for the nursing facility to complete a new DCH-3877.** The local CMHSP will complete the Level II Evaluation within fourteen (14) days of the date of notification. The MDHHS will determine the need for continued Nursing Facility services. The process must be completed, including the MDCH determination, by the fortieth (40^{th}) day after admission. The DCH-3877 and DCH-3878 **must be date stamped** with the date received by CMHSP.

NOTE: If the individual is discharged to a medical hospital during the Hospital Exempted 30-day period upon return to the nursing facility a new DCH-3877 will need to be completed by the nursing facility. This re-admission to the nursing facility will be considered a Change in Condition. The Level II Evaluation should be requested within fourteen (14) calendar days following the re-admission.

- If the individual is discharged to a psychiatric hospital/unit during the Hospital Exempted 30-day period, a new DCH-3877 will be needed. A new Level II

Evaluation will need to be completed and will be considered a Pre-Admission Screen (PAS). A re-admission to the nursing facility cannot take place until a determination is received from the MDHHS/OBRA Office.

- The OBRA coordinator may wish (and is encouraged) to consult with the MDHHS OBRA staff regarding individual cases in which the individual's discharge is pending within a two week period after the 30th day from admission to the NF to determine if a Level II should be completed.

 **NOTE:** The DCH-3877 and DCH-3878 **must be date stamped with the date received** by CMHSP.

This date is then the referral date. If this date stamp is not used as the referral date, the reason why should be stated in section A in the psychosocial assessment.

Guidelines for determining when to complete an Annual Resident Review with a prior Level II Evaluation MDHHS Determination

- Previous MDHHS Determination for individuals with MI and/or ID/DD was NF/No Mental Health Services and there have been no significant changes within the last year reported by the nursing facility. The first year after the Nursing Facility/No Mental Health Services Determination has been made, a face to face contact is required to assure that an Annual Resident Review (ARR) is not needed. In subsequent years, face to face contact is not required as long as a review of information has taken place and no significant changes have been identified.
  - **ARR not Required**

- Previous MDHHS Determination for individuals with MI and/or ID/DD was NF/Other Mental Health Services with services being provided by nursing facility psychiatrist/group, Master's Level Social Worker, private psychiatrist, private psychiatric group, Hospice, community psychiatrist, CMHSP or their contract agency.
  - **ARR is Required**

- Individuals who are currently receiving mental health services through the CMHSP (or its contract agency) beyond Nursing Home Mental Health Monitoring and are an open case to the CMHSP or their contract agency.
  - **ARR is Required**

- Individuals who have experienced a psychiatric decompensation and/or inpatient psychiatric hospitalization during the previous year.
  - **ARR is Required**

- Previous MDHHS Determination for individuals with MI and/or ID/DD was for Specialized Services.
  - **ARR is Required**

- Previous MDHHS Determination for individuals with MI and/or ID/DD was No NF/Other Mental Health Services or No NF/Specialized Mental Health Services.

  ARR is Required

If you are unsure whether to proceed with an Annual Resident Review, Please call the MDHHS OBRA Office at (517) 241-5881.

INSTRUCTIONS FOR COMPLETING THE COMPREHENSIVE LEVEL II EVALUATION

Please do not use abbreviations

You will start by accessing the electronic database (If you are a new systems user you will need to request permission to access – sign on to MIlogin and complete registration process before you can access anything with the database)
****

Navigate to the "Consumer Search" screen and enter social security number, [enter], then choose the correct listed consumer by clicking on name or "Create New Consumer" button.

Clicking the record will display the "Consumer Detail" screen that consists of 3 sections – Personal Information, Legal Representatives, and Consumer Status.

Choose "Edit Consumer" from the drop down menu next to consumer name, verify and enter any missing information.

Click on "Save and Create Legal Rep", this will create a new consumer and advance you to the "Add Legal Representative Screen" – Enter information here IF consumer has an activated DPOA or Legal Guardian, no other information belongs in this section.

Click on "Save and Create Eval" – this creates a new consumer and displays the "Create Evaluation" screen.

******PLEASE NOTE: For more detailed information and step by step instructions on how to navigate the electronic database please refer to the online CMH User Manual**

Once in the "Create Evaluation" Screen fill in all required fields and click Next. Follow prompts and when each screen complete click Next. The last step will be to assign each assessment from the Comprehensive Level II.

When all of the assigned parts have been completed and uploaded to the consumer file, the CMH Coordinator form will be enabled. When the CMH coordinator has entered and saved all parts they should return to "Evaluation Detail Completed Screen" and verify that all of the information on this "Cover Sheet" is accurate.

Cover Sheet - There are 6 sections to the cover sheet

- Personal Information – verify information, any changes can be made by clicking on consumer name to activate a drop down menu, then choose "Edit Consumer"

- Evaluation ARR, CIC, REV, HED, PAS – Again, verify information, and then any changes can be made by clicking the drop down arrow in the upper right hand corner of that section

- Referral Criteria – Verify information and make any changes by clicking the drop down arrow in the upper right hand corner of that section

- Assessment Forms – You can click into each section of the Level II evaluation from this box

- CMH Recommendation – Verify information and make sure appropriate diagnoses are under the correct AXIS. Changes can be made by clicking the drop down arrow in the upper right hand corner

- MDHHS Determination – This section is completed by OBRA PASARR Reviewers, saved, and then sent back to CMH Coordinator.

IDENTIFYING INFORMATION: Complete all areas of the identifying information.

1. The Social Security Number must be filled in for the Level II Evaluation to be reviewed by MDHHS.

2. Please confirm legal representative. If there is a Durable Power of Attorney (DPOA) for health care only, enter only if the DPOA has been activated.

    a. (A DPOA is activated when two (2) physicians or one (1) physician and a Ph.D. psychologist certify in writing that the individual is no longer competent to make the necessary decisions). The legal representative information needs to be placed in The Legal Representative Section of the Electronic Record

3. Any other family or contact information may be included in the psychosocial assessment.

REFERRAL SOURCE:

Indicate the referral source, e.g., hospital, nursing facility, personal physician, home residence, etc., by listing the name of the facility, if the choice is not in the drop down menu, choose “not designated”.

RECOMMENDED/CURRENT NURSING FACILITY:

Complete name and address of the nursing facility and the date the individual was admitted. If the name of the nursing facility is not known, choose "not designated" from drop down menu. In the case of a Preadmission Screen, list the proposed admission date, if known, or leave blank if not known. Insert date of admission to nursing facility. This date is to be the most current admit date (takes into account recent hospitalizations) to the nursing facility.

Diagnostic and Statistical Manual (DSM) DIAGNOSIS

This area auto-fills from information placed on Axis I, II, and III from the various assessments.

CMHSP BOARD RECOMMENDATIONS:

The CMHSP should indicate the recommended placement as well as the level of mental health services being recommended. Reminder: Specialized Mental Health Services requires CMHSP involvement; Other Mental Health Services may be provided by the CMHSP, their contract agency, or other qualified mental health practitioners.

The CMHSP should indicate what specific mental health services are to be provided, i.e., individual counseling, nursing home mental health monitoring, medication review, etc., the issue/problem to be addressed, i.e. losses, coping skills, and who will provide these services (not by the individual's name but by the agency i.e. CMH, private provider, nursing facility), if known.

Include any other ancillary services that may be needed, i.e., occupational therapy (OT), physical therapy (PT), speech therapy (ST), neurology consult, etc. Do not include routine medical care.

Previous determination and date if applicable. For example: Nursing Facility/No Mental Health Services, August 2005 – this area auto-fills.

FOR MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES USE ONLY:

The designated MDHHS PASARR Reviewer will complete this section, which includes the determination, signature and determination date.

6. PSYCHOSOCIAL ASSESSMENT

A. Presenting Problems

What is the "trigger" on the DCH-3877? **Clearly state why the Level II Evaluation is being completed at this time. Medical diagnoses and historical information should not appear here).** Who is identifying the mental illness, intellectual disability/developmental disability? Identify if the Level II is a Pre-Admission Screen (PAS), Hospital Exempted Discharge, Annual Resident Review, Re-Evaluation or Change in Condition. Clearly identify what the change in condition is. What is the precipitating reason for the nursing facility placement? Include information pertaining to any previous assessing of this consumer regarding a not SMI/ID/DD status, previous dementia status or a partially completed Level II. If a previous "not" SMI/ID/DD letter was completed, please upload to Level II.

B. Subjective Evaluation

State the individual's perception of their current mental health status, medical condition and living situation, which includes their awareness, perception, recognition and/or denial. **Quote the individual**, if appropriate. Indicate the individual's feelings toward any current placement, proposed placement and current or proposed mental health treatment. **(This should not be a mental status examination).**

C. Objective Evaluation

State the perceptions of the evaluator, the legal representative, the family, the nursing facility staff and/or caretaker(s). Indicate the legal representative's/ family's/caregiver's feelings toward any current placement, proposed placement and any current or proposed mental health treatment. Attribute all information to the appropriate person/source.

Explain why legal representative was not contacted for input. If legal representative was contacted, include their comments, concerns, ideas, regarding the consumer's mental health services, placement and other pertinent information. If nursing home eligibility is going to change and consumer has a legal guardian, they **must** be contacted for input into the assessment.

D. History of Presenting Problem

This is a chronological summary of the individual's mental illness, intellectual disability or development disability or related condition history. **Medical history should not be included unless it directly relates to the mental health issue** (e.g., became depressed after Cerebral Vascular Accident). Specify symptoms of decompensation. Include a history of psychiatric treatment and hospitalizations, including psychopharmacology. For individuals with intellectual disability or development disability, indicate any programming, services or contacts with the mental health system (i.e. institutionalization).

E. Mental Health Services in the Previous Twelve (12) Months

For an ARR, refer to the previous Level II Evaluation recommendations for mental health services; address how they were implemented **and the outcomes of these interventions.** This may involve contacting the treating therapist/agency for input, and/or reviewing the medical record. Include information on known successful interventions, behavioral plans, vocational or day programming objectives and medication trials. Include the treating therapist's/psychiatrist's Axis I diagnosis and Axis II diagnosis. For persons with intellectual disability/developmental disability, indicate any vocational and/or educational experiences, e.g., attended special education programs or sheltered workshops.

F. Psychosocial History

Identify family of origin, marriage(s), significant relationships, children and their level of involvement. Include significant developmental data, religion/spirituality, ethnicity/cultural significance, education, employment, including type of work, duration, reason for discontinuing in the workforce, usual activities, military service, significant legal history and any significant life events (i.e., medical problems/crisis) that affect lifestyle. Also include the individual's likes and dislikes.

G. Current Living Situation

Identify the individual's current place of residence at the time of the psychosocial assessment, i.e., home, Adult Foster Care, etc. **If the person is in the hospital, indicate place of residence prior to hospitalization.** Describe the capacity of the current living situation to address the person's needs (include developmental needs). Indicate the length of time the individual has resided in this setting, the support services provided and his/her adjustment to same**.** If the individual is currently residing in a group home, please identify if it is a general adult foster care home, a CMHSP funded placement, Medicaid Community Based Waiver or other. Also please identify why the individual is not being considered for return to this placement. **Indicate what prevents the individual from returning to this setting.**

H. Prior Living Situation

List ALL residences prior to the assessment, beginning with the most recent placement or residence. NOTE: N/A is not acceptable. Please provide dates of placement or approximate length of stay, if it was a successful placement or not and the reason the individual left the placement. **Describe the type of CMHSP funded placement the consumer resided in where applicable.**

I. Behaviors Related to Clinical Symptoms

Complete for individuals with mental illness or intellectual disability/developmental disability**. Indicate the frequency and intensity** of each specific behavior(s) that disrupts daily activities and/or behaviors that reflect the individual's distress. Include such things as crying episodes, withdrawal, refusal to eat, auditory/visual hallucinations, delusions, any suicidal or homicidal ideations, aggression, disruptive or inappropriate behavior etc. Indicate what specific interventions have been attempted (including medications, programming, etc.) and the outcome achieved. If a behavioral plan is being used, be sure to elaborate on that plan under Section E. Mental Health Services in the Previous Twelve (12) Months.

J. Substance Use/Abuse

Identify substance(s) of abuse, onset of abuse, frequency and intensity. Indicate any previous substance abuse treatment. State the relationship, if any, of the individual's physical and/or psychiatric status to his/her dependence. Describe any current substance abusing behaviors that have psychotic features. Substance abuse may involve alcohol, illegal or street drugs, prescription or over the counter medications, herbal remedies or food. Note the source of this information.

K. Affective Development

This section should address the individual's interests and skills involved with expressing emotions and coping with changes.

L. Cognitive Abilities/Functioning

Indicate the individual's independent decision making abilities**,** memory, concentration, orientation, judgment, ability to understand and/or learn language, ability to learn new skills and executive functioning abilities. Include if a dementia is present and interferes with the individual's ability to participate in or benefit from mental health services, summarize here.

M. Strengths and Resources

State the personal attributes, interpersonal skills, interaction qualities, ability to participate in leisure activities, adaptive strategies, usual coping skills, goal setting techniques and ability to master current circumstances. Identify family and community support systems and financial resources.

N. Communication Skills

Circle N (No) or Y (Yes) for each item listed below.

Indicate the individual's ability to understand and communicate utilizing verbal and non-verbal communication techniques. Include a narrative if further explanation is needed, i.e., unusual methods of communication, use of communication device, i.e. hearing aid, picture board, language barrier, etc. If a communication device is used, identify if the individual utilizes it regularly or if it is in need of repair or adapting.

O. Recommendations:

Do the psychiatric and/or ID/DD needs exceed the capacity of the Nursing Facility:

No ( )
Yes ( )

Explain any yes answer.

Is psychiatric hospitalization needed?

No ( )
Yes ( )

Explain any yes answer.

Include a narrative summary of the individual's needs and treatment issues, based on your scope of practice. Identify the recommended placement with the rationale for identifying this as the most appropriate placement for the individual. Identify what entity (CMHSP, nursing facility, private psychiatric group, hospice, etc.) could provide treatment or is providing services. Indicate the individual's willingness and/or ability to participate in the proposed treatment interventions and placement.

Make sure to answer the following questions in your summary:

1. **What natural and/or community resources/supports are available?**
2. **Are these resources/supports adequate for a return to a less restrictive setting?**
3. **If not, what additional resources and/or natural supports are needed? Include any referrals made or recommended.**

7. SUMMARY OF MEDICAL HISTORY AND EXAMINATION

A. General Information

Indicate the date of the last physical examination and the name of the physician. Also indicate current height, weight, blood pressure, pulse and respirations and ideal body weight range (IBWR).

B. Current Medical Diagnoses

Briefly describe the individual's medical status for each Axis III diagnosis given **during the past twenty-four (24) months which is <u>currently</u> being treated**. Write out the diagnosis in full. Do not use abbreviations in this section. (Any diagnosis given as history/status post is entered under Section F. Physical Assessment.)

Include problems requiring additional treatment and the individual's compliance with treatment. For example:

Diagnosis	Onset	History	Prognosis
Non- Insulin Dependent DM	Adult/1988	Stable. Diet controlled	Good
Hypertension	Adult/1995	Unstable	Guarded

C. Current Medications

List all medications, dosages, reason given and when the medication initiated. There should be a medical diagnosis for each medication. Indicate the date or time frame each medication was initiated, especially those psychoactive medications used prior to admission to the nursing facility. Indicate if there has been a screening for Tardive Dyskinesia if the individual is receiving a psychotropic medication. If so, indicate the date of the most recent screening and findings. If Tardive Dyskinesia is present, it should be listed under Medical History and Diagnosis. If on a monthly injectable medication (i.e., Prolixin D) give the date of the last dose given.

D. Medication History

Include pertinent information relative to any history of adverse reactions, abnormal screening for Tardive Dyskinesia, changes in medications in the past **six (6) months** and the basis of these, and the **frequency of usage of PRN medications**. If sliding scale insulin is order, include frequency of use with in the past 14-days.

E. Special Treatments and Procedures

Indicate any special treatments or procedures the person is presently receiving by checking (√) the box. A box for "other" is provided to record any treatment or procedure not listed.

F. Physical Assessment

The physical assessment section indicates whether system findings are normal or abnormal. Document all abnormal findings. Include any history/status post conditions under the appropriate system. Review of the Neurological System includes motor functioning, sensory functioning, gait, deep tendon reflexes, cranial nerves and abnormal reflexes. **NOTE**: If abnormal neurological findings are the basis for nursing home placement, additional evaluations may be needed to be done by appropriate specialists. **Explain any PRN services; include the frequency.** Example- O2 PRN. Mr. X has used O2 at 2 L during sleep for the last week. Ms. R has used O2 at 1 L daily when ambulating with PT in the hallway.

G. Abnormal Lab Values

List **pertinent abnormal lab values** drawn **in the last six (6) months**. If necessary, provide a range or additional data to document a pattern which is pertinent to supporting nursing needs.

If an individual is receiving sliding scale insulin, it is ***imperative*** to include the last 30-days blood sugar/accucheck results, and the frequency in which the extra insulin was given.

H. Surgeries or Diagnostic Procedures

List any surgeries or diagnostic procedures performed **within the past year.** Indicate the results and any recommended follow-up.

I. Prosthesis or Equipment

Indicate by checking (√) the box, any prosthesis or equipment currently utilized by the individual. A box for "other" is provided to list any additional prosthesis or equipment. Indicate any problems with usage or refusal to use.

J. Functional Assessment

For Preadmission Screens, evaluate the current level of functioning on the day of the assessment without regard to the past seven (7) days. For persons already residing in the NF, coding should reflect the person's performance over all shifts during the past seven (7) days. Identify the level of assistance needed in each area of Activities of Daily Living (ADLs) by entering or circling the number that best describes the individual's functional level. The key is as follows:

0. INDEPENDENT - No help or oversight – OR – Help/oversight provided only 1 or 2 times during last seven (7) days.

1. SUPERVISION - Oversight, encouragement or cuing provided 3+ times during last 7 days – OR – Supervision plus physical assistance provided only 1 or 2 times during last seven (7) days.

2. LIMITED ASSISTANCE - Resident highly involved in activity; received physical help in guided maneuvering of limbs or other non-weight bearing assistance 3+ time – OR – More help provided only 1 or 2 times during last seven (7) days.

3. EXTENSIVE ASSISTANCE - While resident performed part of activity, over last seven (7) day period, help of following type(s) provided 3 or more times

-- Weight-bearing support
-- Full staff performance during part (but not all) of last seven (7) days.

4. TOTAL DEPENDENCE - Full staff performance of activity during entire seven (7) days.

K. Recommendations

Do the medical needs exceed the capacity of a less restrictive setting?

Yes ( ) No ( )--Explain

Summarize the assessment's findings, per your scope of practice. Provide diagnostic/follow-up, recommendations, identifying nursing care intervention including monitoring, treatments, and dressings. Elaborate on any unstable medical conditions. Identify level of care and placement recommendations and your rationale.

Identify any obstacles to placement or conditions, which would need to be resolved prior to discharge. Describe what, if any, medical conditions and/or treatments cannot be provided for in a community based setting. Explain what needs to occur in order for this condition to be accommodated in a less restrictive setting. Indicate the individual caregiver's willingness and/or ability to participate in the proposed treatment interventions and placement (i.e. who will be giving medications including insulin, able to do an accucheck, dressing changes, follow up to appointments etc…)

Make sure to answer the following questions in your summary:

1. **What natural and/or community resources/supports are available?**
2. **Are these resources/supports adequate for a return to a less restrictive setting?**
3. **If not, what additional resources and/or natural supports are needed? Include any referrals made or recommended.**

FOR ALL LEVEL II EVALUATIONS COMPLETED FOR AN INDIVIDUAL WITH SERIOUS MENTAL ILLNESS, A PHYSICIAN MUST REVIEW AND SIGN THE MEDICAL HISTORY AND EXAMINATION SECTION.

FOR ALL LEVEL II EVALUATIONS COMPLETED FOR AN INDIVIDUAL WITH ID/DD ONLY, NO PHYSICIAN'S SIGNATURE IS NEEDED. A PHYSICIAN'S SIGNATURE IS REQUIRED FOR INDIVIDUALS WHO ARE DUALLY DIAGNOSED (MI/ID/DD).

8. PSYCHIATRIC ASSESSMENT

The Psychiatric Assessment must be completed for all individuals with a mental illness diagnosis and for all individuals found to be dually diagnosed with a mental illness and intellectual disability/development disability or related condition.

A. Clinical Symptoms

Specify the symptoms the individual is currently presenting, either by self-report or observation. If the individual is not currently exhibiting any symptoms, identify the symptoms present when the mental illness was first identified or treatment was initiated. Indicate if the individual is not currently exhibiting the symptoms due to stabilization on medication(s).

B. Current Treatment

Describe any services, programming, medications and/or treatment currently being provided by a psychiatrist, attending physician, nursing facility social worker or staff, hospice, other community agency or CMHSP mental health professional. Indicate when these services or treatments were initiated. **Indicate the individual's response to treatment.**

C. Mental Status Exam Findings

It is important to do a complete mental status examination in order to determine if a psychiatric condition is present, to formulate the appropriate person centered plan and therapeutic interventions, and to serve as a baseline for further evaluations.

Include a narrative description of all components of the mental status exam, including (but not limited to):

Appearance:	cleanliness, posture, dress/grooming, eye contact, disheveled, bizarre
Motor Behavior:	psychomotor retardation/agitation, gait, abnormal involuntary movement(s)
Mood:	euthymic, depressed, irritable, anxious, euphoric
Affect:	inappropriate, Appropriate, labile, constricted, flat
Speech:	normal, impoverished, pressured, slurred, incoherent
Thought Process:	clear, coherence, tangential, flight of ideas, loose associations, perseverative
Thought Content:	delusions (paranoid, grandiose, somatic, nihilistic) or hallucinations (visual, auditory, somatic, tactile), suicidality,
Cognition:	orientation, consciousness, memory, judgment attention/concentration, intelligence, insight

If an affective component is suspected, you may choose to complete a screening tool for depression that has been approved by your agency (i.e. Geriatric Depression Scale or Cornell Scale for Depression).

If a cognitive component is suspected, you may choose to complete a screening tool that has been approved by your agency.
Include a narrative of the interpretation of the findings from the scale(s) used.

D. Risk Factors

Indicate if the individual possesses any factors, which would place him/her at risk for suicide, homicide, psychiatric decompensation, etc., including any cyclical patterns or known precipitants to decompensation. Include any risk of losing current placement that would indicate a need for Specialized Mental Health Services.

E. Suicide Risk/*Homicidal/Harm to others Risk (intentional or unintentional*

Assess suicide potential. This includes but not limited to:

- suicide risk factors (hopelessness, general medical illnesses, alcohol and drug use/abuse patterns, psychotic symptoms, living alone, little social support)
- family history of suicide
- content and frequency of suicidal ideation, attraction to death, intent and plans
- individual's access to means of suicide and lethality of those means
- intensity of current depressive symptoms
- recent life stressors (marital separation, job loss, etc.)
- history of suicide attempts (e.g., lethality of method, circumstances)
- specify the factors that argue against the individual making an attempt

Assess homicidal/harm to others potential. This includes but not limited to:

- history of harm to others
- cognitive changes
- current statements/comments made regarding specific individuals
- recent life stressors
- psychotic symptoms

If the assessment reveals any significant degree of suicidal risk or harm to others, then an immediate call should be made to the appropriate mental health provider for psychiatric assessment regarding the appropriate level of care, re: possible inpatient hospitalization. Also the nursing facility staff should be apprised of the situation and appropriate documentation placed in the medical record.

F. Diagnostic Formulation

Include your diagnostic formulation. Refer to DSM for diagnostic criteria ***and list the criteria met.*** If the individual is not currently exhibiting symptoms, identify the symptoms present when the diagnosis was made or treatment was initiated.

For example:

For an individual to meet the criteria for a Major Depressive Episode, five (5) or more of the following symptoms must have been present during the same two week period and represent a change from previous functioning; at least one of the symptoms is either (1) depressed mood or (2) loss of interest or pleasure.

- depressed mood most of the day, nearly every day
- marked diminished interest or pleasure in all activities most of the day
- significant weight loss
- insomnia
- loss of energy

G. Diagnosis (Current DSM)

The assessor assigns a DSM diagnosis. A rule-out diagnosis cannot be the primary diagnosis, but can be used for the secondary diagnosis.

H. Specialized Mental Health Services

The assessor also determines the need for Specialized Mental Health Services.

Elaborate on the specific needs/issues interventions and frequency of services that you are recommending for specialized services.

If the individual has been assessed as a high suicide or homicidal risk, indicate what immediate actions have been taken.

NOTE: If the individual refuses specialized services, please document in the nursing facility file, as well as your agency file.

I. Mental Health Needs Exceed the Capacity which can be provided in a Nursing Facility

Describe the mental health needs that cannot be managed in a nursing facility. Describe what type of placement could best meet these needs and why.

J. Recommendations for Other Mental Health Services

Indicate the problems, behaviors, and/or issues requiring intervention, and the recommendations for Other Mental Health Services. Indicate who will provide these services (not by the individual's name but by the agency), if known. **Indicate if the individual has been offered these services and their response to such.**

NOTE:
A psychiatric assessment should be completed by a psychiatrist as part of the Level II Evaluation, if the individual is psychiatrically unstable, or if the individual is not responding to psychotropic medications.

The OBRA Coordinator should review all of the assessments for clarity and consistency and determine appropriateness of diagnosis and recommendations.

9. PSYCHOLOGICAL ASSESSMENT: (Must be completed initially for all persons with ID/DD or a Related Condition.)

A. List dates of previous Psychological testing, IQ scores, and tests administered:

DATE	IQ SCORE	TEST ADMINISTERED	DIAGNOSIS
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. ID/DD or Related Condition Diagnosis:

A Psychologist must validate the existence of Intellectual Disability/Developmental Disability or a Related Condition. The individual is considered to have a severe chronic disability that meets ALL of the following conditions. CHECK ALL THAT APPLY:

- _____ **It is manifested BEFORE the age of 22**
- _____ **It is likely to continue indefinitely**
- _____ **It results in substantial functional limitations in three (3) or more of the following areas of major life activity:**
  - _____ **Self care**
  - _____ **Mobility**
  - _____ **Understanding and use of language**
  - _____ **Capacity for independent living**
  - _____ **Learning**
  - _____ **Self direction**
  - _____ **Economic self sufficiency**

- _____ **The disability reflects the individual's need for a combination and/or sequence of special, interdisciplinary treatment or other services that are of lifelong or extended duration and need to be individually planned and coordinated.**

OR

- _____ **The disability is attributable to a mental or physical impairment or a combination of mental and physical impairment.**
  - _____ **Cerebral Palsy**
  - _____ **Epilepsy/Seizure Disorder**
  - _____ **Autism**
  - _____ **Closed Head Injury**
  - _____ **Other:**_____

C. Summary and Recommendations of Psychological Assessment:

_____
_____
_____
_____
_____

Completed By: (Signature and Credentials)

_____ **Date:**_____

Print Name: _____ **Telephone:** (___)_____

9. PSYCHOLOGICAL ASSESSMENT

The Psychological Section **MUST** be completed **initially** for all individuals with ID/DD or related condition in order to validate the ID/DD diagnosis.

If there is existing documentation in the medical and/or clinical record, or the legal representative, family, or care provider can provide such documentation, those records may be used to validate the ID/DD diagnosis without completing any additional testing or evaluating.

Please upload these forms to the consumer's record. The psychologist must be a Qualified Intellectual Disability Professional (QIDP), as defined in the Federal ICF/MR Regulations, to complete the ID/DD Assessment.

NOTE: Psychological Assessment and/or testing does not need to be completed on ARR's once the ID/DD status has been validated.

A. Psychological Testing

For persons with ID/DD, formal psychological testing must have been completed prior to age twenty-two (22) to establish the ID/DD diagnosis. Indicate the tests administered the results and the source of the testing information.

B. ID/DD Diagnosis

A psychologist must validate the Intellectual disability/Developmental Disability or Related Condition by checking all that apply. It is important to ascertain the approximate age of onset to confirm ID/DD.

C. Summary and Recommendations of Psychological Assessment
Do ID/DD needs exceed the capacity of the NF ( ) No ( ) Yes-Explain.

Indicate the problems/behaviors/issues requiring intervention, and the recommendations for specific Specialized or Other Mental Health Services. Indicate who will provide these services, if known. **Include recommendation for placement options.**

10. SENSORIMOTOR AND VOCATIONAL DEVELOPMENT

An individual with a diagnosis of ID/DD must be assessed annually in this area by an occupational therapist, physical therapist, or speech therapist. Include a narrative summary of the assessment.

A. Assessment of the following areas:

1. Ambulation and Transfer Skills

Indicate the individual's ability to self-ambulate, propel a wheelchair, etc. If other assistive devices are utilized; describe them and the individual's ability to use them.

2. Fine Motor dexterity, including eye-hand coordination

3. Gross motor dexterity, including presence of atypical reflexes

4. Positioning needs

Indicate if there is a positioning program in place.

5. Any supportive devices (prosthetic, orthotic, corrective or mechanical)

Indicate the extent that these could improve the individual's functioning capacity.

6. Vocational development

Indicate any involvement in day programs or volunteer opportunities.

7. Self -help development

Indicate skills in toileting, dressing, grooming and eating. Indicate if there are any current programs in place to address any deficits.

8. Social development

Include interpersonal skills, recreation-leisure skills and relationships with others.

B. Recommendations for Programming

Do ID/DD needs exceed the capacity of the NF ( ) No ( ) Yes-Explain

Indicate interventions focusing on maintaining or improving the individual's functional abilities. **Include recommendation for placement options**

(COORDINATOR'S PAGE)

11. RATIONALE FOR NURSING FACILITY PLACEMENT

This section should specify what type of care the individual requires. Indicate what, if any, services are required by a licensed nurse on a daily basis. Also, indicate what level of assistance the individual needs with activities of daily living, etc., and **why this cannot be provided in an alternative placement at this time.**

12. ANTICIPATED LENGTH OF STAY IN NURSING FACILITY

( ) Indefinite – check if recommendation for long term

Indicate, to the best of your ability, the anticipated length of stay (e.g., ninety (90) days, six (6) months, indefinite) based on your knowledge of the individual and the assessment of his/her medical condition. If a time limited stay is anticipated ***describe*** what needs to occur before discharge or alternate placement can take place.

( ) Short Term – check if recommendation is for short term and indicate number of days

( ) Not Applicable – check if nursing facility not recommended

The only time a re-evaluation is necessary is when it is indicated in the determination letter from MDCH.

13. ALTERNATIVE PLACEMENTS EXPLORED with Individual and/or Legal Representative: Yes ( ) No ( ) ***Explain if no alternative placements explored***

Describe what placement options were explored and the individual's/legal representative's response. Include recommended referrals.

14. PROPOSED PROGRAMS/OBJECTIVES FOR TREATMENT PLANNING

This section is **MANDATORY** if mental health services are recommended. Indicate the specific mental health services recommended, including objectives for treatment and specifying who will be responsible for the provision or coordination of treatment.

Provide rationale for the recommendation for CMHSP services when the individual does not meet the criteria for a serious mental illness diagnosis.

15. REVIEW OF COMPREHENSIVE PACKET

The OBRA Coordinator is responsible to assure that all assessments are completed with original signatures and co-signatures by the appropriate disciplines. The OBRA Coordinator must also confirm consistency in diagnoses, findings and recommendations. **EXPLAIN ANY DISCREPANCIES INCLUDING PLACEMENT OPTIONS.**

NOTE: If the Level II Evaluation indicates a primary diagnosis of Dementia for a consumer with a serious mental illness, a signed DCH-3878 **must be** uploaded into the electronic system. The CMHSP is responsible for completing the DCH-3878, if the dementia diagnosis is confirmed by the Level II Evaluation.

PASARR PERSONNEL QUALIFICATIONS

	PROFESSIONAL QUALIFICATIONS
Psychosocial Assessment	Temporary Limited Licensed Psychologist (TLLP) Limited Licensed Psychologist (LLP) Fully Licensed Psychologist (LP) Licensed Master Social Worker (LMSW) Limited Licensed Bachelor Social Worker (LLBSW) Licensed Bachelor Social Worker (LBSW) Limited Licensed Master Social Worker (LLMSW) **with countersignature** of Licensed Master Social Worker (LMSW) Registered Nurse (MSN in Psychiatric Nursing) Limited Licensed Professional Counselor (LLPC) Licensed Professional Counselor (LPC)
Medical History and Physical Examination	Physician (DO or MD) Registered Nurse **with countersignature** of physician Physician's Assistant **with countersignature** of physician
Psychiatric Assessment	Psychiatrist (Board Certified or Eligible, per Mental Health Code definition) Temporary Limited Licensed Psychologist (TLLP) Limited Licensed Psychologist (LLP) Fully Licensed Psychologist (LP) Limited Licensed Master Social Worker (LLMSW) **with countersignature** of Licensed Master Social Worker (LMSW) Licensed Master Social Worker (LMSW) Registered Nurse (MSN in Psychiatric Nursing) Limited Licensed Professional Counselor (LLPC) **with countersignature** of a Licensed Professional Counselor (LPC) Licensed Professional Counselor (LPC)
Psychological Assessment	Temporary Limited Licensed Psychologist (TLLP) Limited Licensed Psychologist (LLP) Fully Licensed Psychologist (LP)*
Sensorimotor Development	Occupational Therapist Physical Therapist Speech Therapist

The evaluation must be completed by at least two different persons representing two different disciplines.

*****The psychologist must be a Qualified Intellectual Disability Professional (QIDP), as defined in the federal regulations, Chapter IV 483.430. The OBRA Coordinator must be a Qualified Mental Health Professional as defined in the Mental Health Code, 330.1100b (16, a-f)

LEVEL II DETERMINATIONS AND THEIR IMPLICATIONS

There are six (6) possible determinations, which can be made as a result of the Level II Evaluation. These determinations are outlined below, with an explanation of the effect on the individual's ability to stay in the nursing facility and to receive mental health services.

Nursing Facility/No Mental Health Services:

For persons with a Serious Mental Illness:

These are individuals with a known mental illness who are currently psychiatrically stable. No mental health services are required, however, may still be receiving services from the nursing facility physician or social worker. They may remain in the nursing facility. **Annual Resident Reviews are not required unless a significant change has been reported by the nursing facility.** The first year after the Nursing Facility No Mental Health Services Determination has been made; a face to face contact is required to assure that an Annual Resident Review (ARR) is not needed. Subsequent years, a face to face contact is not required as long as a review of information has taken place and no significant changes have been identified.

For persons with Intellectual Disability or Developmental Disability:

These are individuals with a known developmental disability or intellectual disability whose primary need is for nursing care. No mental health services are required, however, may still be receiving services from the nursing facility physician or SW. They may remain in the nursing facility. **Annual Resident Reviews are not required unless a significant change has been reported by the nursing facility.** The first year after the Nursing Facility/No Mental Health Services Determination has been made a face to face contact is required to assure that an Annual Resident Review (ARR) is not needed. Subsequent years, a face to face contact is not required as long as a review of information has taken place and no significant changes have been identified.

Nursing Facility/Specialized Mental Health Services:

For persons with a Serious Mental Illness:

This determination means that the individual requires the level of services identified as Specialized Services and must be provided by the CMHSP or their contract agency. An individual for whom this determination has been made is eligible for continued stay in the nursing facility. **Annual Resident Reviews must be completed on these individuals.** While Specialized Services can be provided in the nursing facility, providing services of this intensity may not always be possible in every nursing facility. The individual has the right to refuse mental health services. Such refusal should be made in writing and reflect that the individual knowingly and willingly waives such treatment. However, refusal to

accept Specialized Mental Health Services may result in the individual being discharged from a particular nursing facility at the nursing facility's initiation due to its inability to meet the individual's needs. If the nursing facility believes that it is unable to meet the individual's needs, and desires an involuntary psychiatric admission, it is the NF's responsibility to initiate that process, working with the local CMHSP or their contract agency, the attending physician or the individual's private psychiatrist.

For persons with Intellectual Disability or Developmental Disability:

This determination means that the individual requires the level of services identified as Specialized Services for ID/DD and must be coordinated by the CMHSP or their contract agency. An individual for whom this determination has been made is eligible for continued stay in the nursing facility. **Annual Resident Reviews must be completed on these individuals**. While Specialized Services can be provided in the nursing facility, providing services of this intensity in this setting may not always be possible in every nursing facility. Provision of these services may be a combination of services within the nursing facility and services provided in the community i.e., day treatment, or a combination of nursing facility services and services through the CMHSP or their contract agency.

Nursing Facility/Other Mental Health Services:

For persons with a Serious Mental Illness:

This includes individuals who have a serious mental illness or those whose mental health needs are not so severe that they require psychiatric hospitalization or Specialized Services. An individual for whom this determination has been made is eligible for continued stay in the nursing facility. Other Mental Health Services could be provided through the nursing facility staff, Master's Level Social Worker, private psychiatrist, Hospice, community psychiatrist, CMHSP or their contract agency. The individual has the right to refuse services without any consequences. **Annual Resident Reviews must be completed on these individuals**.

For persons with Intellectual Disability or Developmental Disability:

All of the above would apply.

No Nursing Facility/Specialized Mental Health Services:

For persons with a Serious Mental Illness:

These individuals may not be admitted to the nursing facility. This determination suggests that the individual requires 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. For the individual who is already in the nursing facility, alternative placement must be pursued. The individual will be able to

remain in the nursing facility only until an alternative placement is found. **Annual Resident Reviews must be completed as long as they remain in the nursing facility**. Those individuals that have continuously resided in the nursing facility for thirty months or longer, prior to the first No Nursing Facility determination, may exercise their right to remain in the nursing facility provided Specialized Services can be provided in that setting and they are willing to accept services. **Should they refuse Specialized Services, they may not remain in the nursing facility.** Written confirmation of the individual's wish to exercise their option to remain in the nursing facility should be a part of the medical record. Those individuals who do not meet the thirty-month provision and who wish to remain in the nursing facility must pursue the appeal process.

For persons with Intellectual Disability or Developmental Disability:

This determination means that the individual is appropriate for an ICF/MR or similar type placement in the community and thus should not be admitted to the nursing facility. For those individuals already in the nursing facility, they may remain in the nursing facility until such a placement becomes available, while receiving Specialized Services**. Annual Resident Reviews must be completed on these individuals as long as they remain at the nursing facility.**

No Nursing Facility/Other Mental Health Services:

For persons with a Serious Mental Illness:

These are individuals with a known serious mental illness who require mental health services but have no 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 discharge from the nursing facility. The PASARR legislation indicates that it 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 complete an Appeal. Once the individual has been discharged from the nursing facility, they may not be re- admitted to any nursing facility unless a new Preadmission Screen is completed. The Thirty (30) Month Rule does not apply for this determination. **Annual Resident Reviews must be completed on these individuals as long as they remain at the nursing facility**.

For persons with Intellectual Disability or Developmental Disability: The above would apply.

No Nursing Facility/No Mental Health Services:

For persons with a Serious Mental Illness:

These are individuals with a known diagnosis of serious mental illness with no current mental health or nursing needs. These individuals may not be admitted to the nursing facility. If already in a nursing facility, it is the responsibility of the nursing facility to pursue alternate placement. Individuals who wish to remain in the nursing facility must pursue the Appeal process. **Annual Resident Reviews must be complete on these individuals as long as they remain at the nursing facility.**

For persons with Intellectual Disability or Developmental Disability:

The above would apply.

Transfer Trauma- Borton v. Califano:

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.

Requires Re-Evaluation:

It is possible that an individual would be approved for a nursing facility placement for a specified amount of time. These are individuals whose nursing needs are anticipated to be temporary. A re-evaluation will only be completed within the time frame specified in the MDHHS Letter of Determination (i.e., 30-60-90 days) after placement. The focus of this re- evaluation will be the individual's continuing need for nursing facility services and/or readiness for alternate placement. No DCH-3877 is needed.

No Determination Required:

MDHHS OBRA Reviewers may find that no determination is necessary after reviewing a completed Level II Evaluation. This will occur with individuals who are found not to be Seriously Mentally Ill, ID or DD (per PASARR criteria), who meet the Dementia Exemption, who have decided not to enter a nursing facility or who have expired during the course of the evaluation. MDCH will issue a letter indicating why a formal Determination is not necessary.

CMHSP OBRA Coordinators may determine that a Level II does not need to be completed in the following circumstances:

- The Level I (DCH-3877) was reviewed by the OBRA Coordinator and it was determined that the individual did not meet PASARR criteria for Serious Mental Illness/ID or DD.
- The Level II was initiated, however, during the course of the evaluation, it was determined that the individual did not meet PASARR criteria for Serious Mental Illness/ID or DD and the Level II evaluation was terminated prior to completion.
- The individual has had a previous Level II evaluation and at the time of the ARR, the individual no longer meets the PASARR criteria for an ARR.
- The OBRA Coordinator may delay doing an ARR (not PAS), if during the course of the evaluation it is determined the individual will be discharged from the nursing facility within two weeks. The coordinator should document in the nursing facility file (or send notice to the nursing facility) the reason for the delay in completing the ARR. The coordinator then needs to follow-up within the time period to assure the discharge occurred. If the individual remains in the nursing facility a Level II will then be completed. The coordinator is encouraged to follow-

up with the MDHHS OBRA staff, if any questions occur regarding a delay in completing a Level II evaluation.

Determination Letters

Following review of a Level II Evaluation, the MDCH OBRA Office will send the CMHSP PASARR agency an electronic letter indicating what the determination was, the reason for the determination, and what the result is for the individual.

Level II-Tools

Sample Letters and Distribution Table

Sample OBRA Office Determination Letter

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING, MICHIGAN 48913

[DATE]

OBRA Coordinator
[Agency or CMHSP]
[Address]
Name] [Address]
[City, State, Zip]

Re: **[Recipient's**
D.O.B. **00/00/0000**

The **[Annual Resident Review or Preadmission Screening]** submitted by your agency for the above-named recipient has been reviewed. Please provide the recipient and the recipient's legal representative notice of the following:

1. DETERMINATION:
2. RESULT OF THE DETERMINATION:
3. REASON FOR THE DETERMINATION:

A copy of your agency's Level II Evaluation must be provided and explained to the legal representative and/or the individual. A copy must also be provided to the retaining nursing facility.

Please provide appropriate appeals Notice of Determination. Copies of the notice should be distributed to the admitting or retaining nursing facility, the discharging hospital (if applicable) and the individual's physician where those entities desire a copy of such notice.

With the Notice of Determination form, you **must** include a Request for Hearing form and a stamped envelope addressed to the Administrative Hearings Office. Upon delivery or mailing of the notice, please submit electronically a Certification of Delivery form to the OBRA Office.

A copy of your agency's Level II evaluation must be provided and explained to the recipient and his or her legal representative. A copy must also be provided to the admitting or retaining nursing facility and the discharging hospital (if applicable) and the recipient's physician where those entities desire a copy of such evaluation.

Office of Specialized Nursing Home/OBRA Programs
Division of Quality Management and Planning
Michigan Department of Health and Human Services

Sample CMHSP OBRA Coordinator's Letter

Date

Nursing Facility/Recipient/Legal Representative Address
City, State, Zip

Re: Recipient D.O.B.

The PASARR Level I (DCH-3877) for the above named recipient has been received and reviewed by the CMHSP OBRA Coordinator.

_____Based on a review of the available information, and/or a face to face contact with the recipient; the recipient does not meet criteria for a serious mental illness under the PASARR provisions, but may have a less than serious mental illness.

_____Based on a review of the available information, and/or a face to face contact with the recipient; the recipient does not meet criteria for a developmental disability, intellectual disability, or related condition under the PASARR provisions.

_____Based on a review of the available information, and/or a face to face contact with the recipient; the recipient does not require an ARR this year due to last year's determination of Nursing Facility/No Mental Health Services.

The recipient may choose to remain in the nursing facility and receive mental health services. Further PASARR Level II Evaluations (Annual Resident Reviews) are not required, unless a significant change has been reported by the nursing facility or based upon a review of available information and/or a face to face contact by the PASARR Reviewer a significant change has been identified.

This does not alter the nursing facility's requirement for completing the Annual Level I (DCH-3877) or reporting significant changes to the CMHSP or their contract agency. A copy of this notice should remain in the recipient's current medical record.

Sincerely,

CMHSP OBRA Coordinator

DO NOT REMOVE FROM RECORD

DISTRIBUTION OF PASARR DOCUMENTAION

The following chart shows the correct distribution of copies of PASARR forms (DCH-3877, DCH- 3878), and Level II evaluation documentation. All originals must be fully completed and signed.

Level I Screening Documentation (DCH-3877)		
Original	Nursing facility record	All nursing facility admissions
Copy	Individual or their legal representative	All nursing facility admissions
Copy	CMHSP	If "yes" answer(s)
Copy	MDHHS via local CMHSP	If "yes" answer(s) and no exemption criteria met

Documentation of Exemption to Level II Evaluation (DCH-3878)	
Original	Nursing facility record
Copy	Individual or their legal representative
Copy	CMHSP
Copy	MDHHS via local CMHSP

Level II Evaluation Documentation	
Electronic Record	MDHHS OBRA Office
Copy	CMHSP
Copy	Individual or their legal representative
Copy	Nursing facility
Copy	Hospital, attending physician

MDHHS Determination	
Electronic Record	MDHHS OBRA Office
Copy	CMHSP
Copy	Individual or their legal representative
Copy	Hospital, attending physician
Copy	Nursing facility

CHAPTER 4

Specialized Services

SPECIALIZED SERVICES

Background

The Omnibus Budget Reconciliation Act (OBRA) of 1987 required that the state mental health/intellectual disability authority determine for each person, who is subject to the preadmission screening/annual resident review requirements (PASARR), whether that person requires "active treatment" for his/her mental illness or intellectual disability. The OBRA ACT further provided that "...the State must...provide for (or arrange for the provision of) such active treatment for the mental illness or intellectual disability." "Active treatment" was defined as follows:

> "...The term 'active treatment' has the meaning given such term by the Secretary in regulations, but does not include, in the case of a resident of a nursing facility, services within the scope of services which the facility must provide or arrange for its residents..."

No regulations defining "active treatment" were promulgated by the Secretary of Health and Human Services.

Subsequently, in the 1990 Technical Amendments to OBRA 1987, Congress substituted the term "specialized services" for the term "active treatment."

On October 5, 2010, bill S.2781 or "Rosa's Law" was signed into federal law. This is a significant milestone in the ongoing battle for dignity, inclusion and respect of all people with intellectual disabilities. The law removes the terms "mental retardation" and "mentally retarded" from federal health, education and labor policy and replaces them with people first language "individual with an intellectual disability" and "intellectual disability." This is also required by the new "Final Rule".

Federal Definition of Specialized Services

In late November 1992, the Secretary of Health and Human Services issued rules for the Preadmission Screening/Annual Resident Review (PASARR) program. These rules require that "[t]he State must provide or arrange for the provision of specialized services...to all NF [nursing facility] residents with MI or ID/DD whose needs are such that continuous supervision, treatment and training by qualified mental health or mental retardation personnel is necessary".

For persons with mental illness (defined as "serious 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 s developed and supervised by an interdisciplinary team, which includes a physician, qualified mental health professionals and, as appropriate, other professionals.

- 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

- 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." (483.120, a i, ii, iii)

For persons with intellectual disability, or a related condition, "specialized services means the services specified by the State which, combined with services provided by the NF or other service providers, results in treatment which meets the requirements of 483.440(a)(1)." (It is important to note, that this definition is different from the definition of "specialized services" for persons with mental illness. Section 483.440(a)(1), which is taken from the federal regulations for Intermediate Care Facilities for the Intellectually or Developmentally Disabled (ICF/ID/DD), requires that:

> "Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program for specialized and generic training, treatment, health services and related services described in this subpart, that is directed toward (i) The acquisition of the behaviors necessary for the client to function with as much self- determination and independence as possible, and (ii) The prevention or deceleration of regression or loss of current optimal functional status."

Essentially, though Congress has changed the term from "active treatment" to "specialized services," Health Care Financing Administration (HCFA) now CMS, by rule, has defined the new term to mean the same type of program and services as was included in the term "active treatment."

In its comments regarding the PASARR regulations, the HCFA explains that a "continuous active treatment program" does not mandate that:

"...treatment itself must occur on a 24-hour a day basis. Rather, it is that individuals who lack the independence to function without constant supervision have such supervision available to them in the event that it is required. It also means that there is continuous competent interaction among all facility staff who come in contact with the individual so that treatment modalities identified in the plan of care can be properly implemented and reinforced as needed on a 24-hour a day basis. If the need for supervision or treatment is not predictable because of the individual's condition, then clearly it needs to be available at all times."

Nursing Facility's Responsibility for Specialized Mental Health Rehabilitation Services

In defining what services constitute "specialized services," it is necessary, as noted in the federal rules, to examine what services are required to be "provided by the nursing facility." Federal regulations governing nursing facilities require that, in addition to more traditional nursing services, nursing facilities are required to provide "specialized mental health rehabilitation services" to any NF resident who requires such services. According to interpretive guidelines utilized by nursing facility surveyors, these services may include, among other services,

- Consistent implementation during daily routine and across settings of systematic plans which are designed to change inappropriate behaviors,
- Provision of a structured environment for those individuals who are determined to need such structure,
- development, maintenance and consistent implementation across settings of those programs designed to teach individuals the daily living skills they need to be more independent and self-determining,
- formal behavior modification programs,
- individual, group and family psychotherapy,
- crisis intervention services

These services must be available to NF residents regardless of whether they are required by the PASARR process or whether the person is determined to require additional services to be provided or arranged by the State as specialized services. Persons with dementia are also covered by this requirement, unlike the PASARR process which exempts persons with a primary diagnosis dementia and a mental illness.

State Definition of Specialized Services

A review of the federal definition of "specialized services" and the requirements that the nursing facility is responsible for "specialized mental health rehabilitation services" suggests that the two requirements conflict, or minimally, that there is some overlap between the two requirements in terms of types of services. The commentary accompanying the federal PASARR rules recognize this conflict and attempts to resolve it by differentiating "specialized services" from "specialized mental health rehabilitation services" by the **intensity and frequency** of mental health services. The primary impediment to the nursing facility providing specialized services, without outside involvement, is the lack of specialized expertise in the area of programs and services to persons who are seriously mentally ill, intellectual disability or have a related condition.

The public mental health system will provide this expertise in the areas of assessment, program development, training direct contact staff to implement programs as designed, monitoring of resident progress and modification of such programs. This expertise will be provided through clinical professionals who meet the qualifications of a qualified mental health professional (QMHP) or Qualified Intellectual Disability Professional (QIDP). A Mental Health Professional means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is one of the following: a physician, a psychologist, a registered professional licensed nurse, a licensed master's social worker, a licensed professional counselor, or a marriage and family licensed therapist.(Mental Health Code 330.1100b (16 a-f). Qualified Intellectual Disability Professional (QIDP) has at least one year of experience working directly with persons with intellectual disability or other developmental disabilities and is one of the following: a doctor of medicine or osteopathy, a registered nurse, an individual who holds at least a bachelor's degree in a professional category and must be licensed, certified, or registered as applicable. This may include occupational therapist, physical therapist, psychologist, social worker, speech-language pathologist or audiologist, professional recreation staff member, or professional dietitian (483.430a,b)

This approach appears consistent with the intent of the federal regulations. Both PASARR regulations and Long-Term Care Facility regulations stress the importance of PASARR activities and nursing facility services being coordinated to the maximum extent possible. The interpretive guidelines for Long-Term Care Facility surveys specifically states:

> "The facility should provide interventions which complement, reinforce and are consistent with any specialized services (as defined by the resident's PASARR) the individual is receiving or is required to receive by the State. The individual's plan of care should specify how the facility will integrate relevant activities throughout all hours of the individual's day at the NF to achieve this consistency and enhancement of PASARR goals..."

For persons with Serious Mental Illness:

The Level II Evaluation will provide recommendations regarding the services and programs needed by the individual. Recommendations will be based on evaluation of the individual's mental status and its impact on care needs. **Specialized services would be put in place to preserve the current placement and/or prevent psychiatric hospitalization.** They are short term and intensive in nature. In some cases, a specialized services plan would be used when there is a known cycle or period of decompensation.

For persons with Intellectual Disability, Developmental Disability or a Related Condition*:*

The Level II Evaluation will provide recommendations regarding the services and programs needed by the individual. Recommendations will be based on evaluation of the individual's impairment in functional skills and the severity of those deficits. The State must make a qualitative judgment on the extent to which the person's status reflects the characteristics commonly associated with the need for specialized services including:

Impairment in Functional Skills or the inability to:

- Take care of most personal care needs,
- Understand simple commands,
- Communicate basic needs and wants,
- be employed at a productive wage level without systematic long-term supervision or support,
- Learn new skills without aggressive and consistent training,
- Apply skills learned in a training situation to other environments or settings without aggressive and consistent training,
- Demonstrate behavior appropriate to the time, situation or place without direct supervision, and
- Make decisions requiring informed consent without extreme difficulty.

In determining from this evaluation whether the person requires specialized services, the State will answer the following question:

> Does the individual have program needs as a result of/or associated with intellectual disability or a related condition, as defined in the PASARR regulations, which has a significant impact on the individual's ability to function despite usual and customary effort to improve or maintain skills, or which requires clinical expertise which can only be obtained from clinicians with experience in treating persons with Intellectual/Developmental Disability or related condition?

As indicated above, “expertise” means

> “...clinical professionals who meet the qualifications of a qualified intellectual disability professional (QIDP) as defined in the ICF/ID/DD regulations. A QIDP is required to have had one year professional experience directly working with persons who are intellectually or developmentally disabled and may include, but is not limited to, the following professionals: occupational therapist, physical therapist, registered nurse, speech therapist, social worker, registered dietician, psychologist recreation therapist, music therapist or rehabilitation counselor.”

The Level II Evaluation will also specify the individual’s strengths and needs relative to skill deficits. For example, if an individual has difficulties with toileting, the assessment would provide specific information, such as the person is aware of the need to void, but has occasional incontinence due to the inability to remove clothing.

NOTE: It is very unlikely that a person with intellectual disability (or related condition) would be determined to need “other mental health services,” except in the instances noted in the next section on dual diagnosis. The reason for this is that, in the area of intellectual disability, “other mental health services” suggests that there is specialized professional involvement because the service need is related to the person’s intellectual disability. This is essentially the definition of Specialized Services for persons who have intellectual disability or a related condition. **It is very important that evaluators carefully distinguish between those service needs that require the involvement of an intellectual disability professional and those which are “generic” service needs**, i.e., do not require specifically trained professionals. For example, administering medication is a “generic” service, while teaching a person to self-administer may be a “specialized service” because it requires the involvement of an intellectual disability professional to design and monitor the program.

For Persons with Dual Diagnosis:

Persons having a dual diagnosis, either intellectual disability (or related condition) and mental illness or intellectual disability (or related condition) and dementia, present some considerations that are significantly different from how persons who have only a diagnosis of mental illness or dementia might be treated.

For a person who has both intellectual disability and mental illness diagnoses, the evaluators may recommend either Specialized Services or Other Mental Health Services depending on the interrelationship of the two diagnoses. In some case, it may be that the mental illness can be addressed by staff who do not have expertise in dealing with persons who have intellectual disability or a related condition. For example, a person with mild intellectual disability or cerebral palsy who also has a major depression which is not acute may need individual psychotherapy. If this is the only service need the

person has, the evaluator's recommendation would be that the person requires "Other Mental Health Services." However, there may be other persons with intellectual disability (or related condition) with a non-acute major depression who require Specialized Services. This would be the case either because they have other service needs related to their intellectual disability or related condition (e.g., ADL training, speech therapy, etc.) or because their level of intellectual disability would require a psychotherapist who has experience dealing with persons who have an intellectual disability.

Similarly, persons with the dual diagnosis of intellectual disability (or related condition) and dementia may require a different determination related to differing degrees of intellectual disability or dementia. **REMEMBER, PERSONS WITH INTELLECTUAL DISABILITY (OR RELATED CONDITION) ARE NOT EXEMPT FROM THE LEVEL II PROCESS OR SERVICES BECAUSE OF DEMENTIA.** The evaluators will need to look at whether service delivery requires the involvement of a professional with expertise in dealing with intellectual disability (or related condition). In the end stages of dementia, or in some cases where there is dementia and very mild intellectual disability, the person may not require the involvement of a professional with expertise in intellectual disability. In such cases, the person's mental health needs would be categorized as "Other Mental Health Services."

The Role of the Community Mental Health Service Provider (CMHSP)

The CMHSP system in Michigan has three roles in the PASARR process. First, the local CMHSP, or its contract agencies, performs the comprehensive evaluation (Level II) required by the PASARR Program. In that role, the CMHSP professionals recommend to the MDHHS whether the person needs nursing facility services and whether the person needs specialized services or mental health services less than specialized services.

Second, the MDHHS has "arranged for the provision" of specialized services by allocating funds to the local CMHSP's to provide those services to residents of nursing facilities who have been determined through the PASARR process to require specialized services. **These services, as discussed below, must be provided.**

The third role of the CMHSP is a more traditional role of the public mental health service provider for a county or several counties. I**t must provide services to residents of nursing facilities on the same basis that it does to all other persons in the local county or counties**. A nursing facility may use the local CMHSP as a mental health service provider in fulfilling its obligation to provide specialized mental health rehabilitation services. Services for persons with dementia are also available through the CMHSP on the same basis.

However, as previously discussed, the nursing facility has the primary responsibility for provision of specialized mental health rehabilitation services. A community mental health agency may be unable to provide or make available a given service for a variety

of reasons such as waiting lists, the service is not regularly provided by CMHSP or transportation that is required to an outpatient service, etc. In such cases, the nursing facility may have to locate another provider. The nursing facility is not relieved of its responsibility merely because a referral has been made.

The MDHHS recognizes that for most individuals a mental health problem is not a static condition, that an individual's condition may become more or less severe for a variety of reasons. In addition, less severe forms of mental illness may become more severe if not appropriately treated. For these reasons, the mental health system has an ongoing interest in assuring continuity and consistency of care, regardless of the degree of severity at any given moment.

In 1991, funds were made available to the CMHSP to provide specialized services and other mental health services to persons residing in nursing facilities. The CMHSP provided the MDHHS with spending plans indicating what services they would provide. **Priority for use of these funds is for persons with the most severe mental health problems, who need specialized services**. To the extent there are funds remaining after this priority group is served, the MDHHS has given the CMHSP additional capacity to serve persons who need mental health services, less than specialized services.

DEFINITIONS OF CMHSP SPECIALIZED SERVICES

The following is a brief description of the community mental health services which may be available to residents of nursing facilities and which may be provided by CMHSP's through their arrangement with the Department of Health and Human Services. **The need for these services is indicated through the PASARR process and delivered as a part of an individual plan of service developed by an interdisciplinary team, which includes, among others, CMHSP and nursing facility staff.**

Crisis Intervention

Unscheduled, short-term clinical interventions directed at resolving emergency situations which have placed the individual at risk of inpatient psychiatric hospitalization or loss of living situation.

Individual Therapy

Professional mental health services delivered on a one-to-one basis, prescribed in an individual plan of service and designed to stabilize, maintain or enhance functioning within the nursing home or enable transition to a community-based setting.

Group Therapy

Professional mental health services delivered simultaneously to two or more persons, prescribed in their individual plans of service and designed to stabilize, maintain or enhance functioning within the nursing home or enable transition to a community-based setting.

Pharmaco Therapy

Psychiatric services, including review or prescription of psychoactive medications, in accordance with an individual plan of service and with the goal of stabilizing, maintaining or enhancing functioning and of integrating the psychiatric regimen within the broader plan for nursing facility services.

Behavior Modification

Increasing prosocial behaviors and reducing maladaptive behaviors through systematic care approaches, utilizing principles of differential reinforcement and developed by a qualified psychologist.

Day Treatment

A therapeutic program of clinical, social or vocational services offered off-site and designed to maintain or enhance functional skills and independence; for some individuals, such programming is designed to ease the transition to community-based living and to provide service continuity following placement.

Peer Supports
Peer support programs consist of social, emotional, and instrumental support services delivered by consumers who have achieved significant recovery in their own mental health. Peer specialists model recovery, teach skills, and offer supports to help people experiencing mental health challenges by promoting recovery, education, empowerment, and aid in system navigation.

Nursing Facility Mental Health Monitoring
Direct and indirect services provided by CMHSP staff, which are based on a comprehensive assessment of the individual's mental health, social, financial, legal and physical needs, which may include such components as nursing home monitoring, advocacy, referral, placement and service coordination and which are provided in support of an individual plan of service.

Depending on availability and need, the services listed above may also be provided to persons residing in nursing facilities who do not require Specialized Services.

The following services are available through CMHSP's to assist nursing facilities in better addressing the mental health needs of residents.

Case Consultation
The provision of technical assistance and information about mental health care issues, and the practices through a process of joint problem solving. Consultation is provided related to a specific individual, or a group of individuals, with a common diagnosis.

Program Consultation
The provision of technical assistance and information related to the development, evaluation or improvement of services, policies or practices to more effectively meet the mental health needs of residents. Areas of program consultation may include assisting the facility in the development of staff training programs, revision or development of protocols related to managing challenging behaviors, development of alternatives to physical and chemical restraints, etc.

The accompanying grids are an effort to illustrate that difference in order to provide clarity and direction to nursing facilities and the community mental health system in carrying out their respective responsibilities under federal law. The underlying assumption is that the more severe the mental health issue, the greater the level of intensity and frequency of services.

Mental Health Services for Persons with Mental Illness in the Nursing Facility

Not Considered Other Mental Health Services
Annual Resident Review
Nursing Facility Social Worker services
Consultation as needed
Referrals
Psychiatric medication monitoring by Primary Care Physician
Peer Support Staff - Not as a sole service
Considered Other Mental Health Services
Nursing Facility Mental Health Monitoring Identify what issue you are monitoring Identify the goal/outcome of the intervention
Nursing Facility Master's Level Social Worker providing counseling
Individual Supportive Therapy Identify what you are focusing on, outcomes, etc.
Psychiatric follow-up Identify what issue the psychiatrist will be addressing
Psychiatric medication monitoring i.e. for response, effectiveness, side effects, need for a change in medications, titrate off medication
Skill Building
Community Integration
Day Program
Peer Support Staff
Development and monitoring of a behavioral management plan with specific interventions and implementation with clear goals/outcomes, to be implemented on a short term basis, with increased intensity, to stabilize a consumer and preserve a placement
Private Practitioner Services

Specialized Mental Health Services for Persons with Mental Illness in the Nursing Facility

Not Considered Specialized Services
Nursing Facility Mental Health Monitoring Not as a sole service – may be combined with other direct services
Individual Therapy Not as a sole service
Psychiatric Follow Up Not as a sole service
Psychiatric medication review Not as a sole service
Support Coordination The nursing facility is the 'case manager'. CMHSP may provide some supports coordination in combination with other direct services
Nursing Facility to Provide … May be in addition to other mental health services being provided by the CMHSP
Consultation as needed
Waiting list for Alternative placement Day Programming
Annual Resident Review
Skill Building
Community Integration
Day Program
Referrals
Peer Support Staff Not as a sole service
Considered Specialized Services: A combination of services of greater intensity and frequency designed to stabilize an individual in crisis which may include:
Nursing Facility Mental Health Monitoring Identify what issue you are monitoring Identify the goal/outcome of the intervention
Individual Supportive Therapy Identify what you are focusing on, outcomes, etc
Psychiatric follow up Identify what issue the psychiatrist will be addressing
Psychiatric medication monitoring ie. for response, effectiveness, side effects, need for a change in medications, titrate off medication
Development and monitoring of a behavioral management plan with specific interventions and implementation with clear goals/outcomes, to be implemented on a short term basis, with increased intensity, to stabilize a consumer and preserve a placement
Crisis Intervention on a short term basis, to stabilize a consumer in crisis and to maintain a placement
Intensive psychotherapy to stabilize a client More than once a week
Intensive psychiatric intervention to stabilize a consumer (i.e. frequent medication adjustments)
Skill Building
Community Integration
Day Programming/Club House
Vocational Programming
Peer Support Staff

Specialized Mental Health Services for Persons with ID/DD or Related Condition in the Nursing Facility

Not Considered Services
Nursing Facility Mental Health Monitoring Not as a sole service – may be combined with other direct services
Nursing Facility to Provide – May be in addition to other mental health services being provided by the CMHSP or their contract agency
Psychiatric medication monitoring Not as a sole service
Seek/Continue/Evaluate Guardianship/Legal Representation
Support Coordination The nursing facility is the 'case manager'. CMHSP or their contract agency may provide some supports coordination in combination with other direct services
Consultation as needed
Annual Resident Review
Skill Building
Community Integration
Day Program
Referrals
Peer Support Staff Not as sole service
Waiting list for Alternative placement, Day Programming
Considered Specialized Services: A combination of services of greater intensity and frequency designed to stabilize an individual in crisis which may include:
Nursing Facility Mental Health Monitoring Identify what issue is being monitored Identify the goal/outcome of the intervention
Psychiatric follow up Identify what issue the psychiatrist will be addressing
Psychiatric medication monitoring i.e. for response, effectiveness, side effects, need for a change in medications, titrate off medication
Individual Supportive Therapy Identify what the focus is, outcomes
Development and monitoring of a behavioral management plan with specific interventions and implementation with clear goals/outcomes, to be implemented on a short term basis, with increased intensity, to stabilize a client and preserve a placement
Sensory Integration Programs Developed & monitored by CMHSP or contract agency
Sensory Stimulation Programs Developed & monitored by CMHSP or contract agency
Positioning Programs Developed & monitored by CMHSP or contract agency
Community Integration activities Identify skill and outcomes
Skill Building in anticipation of community placement or Day/vocational programming Socialization Programs
Day Program
Vocational Programming or Day Programming
Peer Support

SPECIALIZED SERVICES
INTELLECTUAL DISABILITY/DEVELOPMENTAL DISABILITY OR RELATED CONDITION

ELEMENT	COMMUNITY MENTAL HEALTH	NURSING FACILITY
Evaluation	PASARR Level II	Minimum Data Set
Plan Development	Ancillary Services Professionals (including QIDP) Care Planning Conference	Nursing Facility Staff Care Planning Conference
Implementation	Coordination of Any Off-Site Program Staff Training	Nursing Facility Staff Ancillary Services through Prior Authorization(P.A.) process for Direct Therapy
Monitoring	Nursing Facility Monitoring Ancillary Service Professionals Staff Training	Nursing Supervision/ N.F. Social Worker Ancillary Service Professionals
Behavior Modification	Ancillary Service Professionals Care Planning Conference	Care Planning Conference Ancillary Service Professionals

The specific programs and services required will be specified through the PASARR Level II.

CHAPTER 5

Thirty Month Rule

THE THIRTY 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.** For the most part, this determination refers to individuals diagnosed with Intellectual Disability/Developmental Disability (ID/DD).

For the purpose of this rule, continuous residence in a nursing facility (NF) would Include:

- any brief hospitalizations
- transfer from one NF to another such that there is a thirty-month interval from the original date of admission to a NF and the date of the first PASARR screen which indicates No Nursing Facility/Specialized Services.

No Appeal is necessary in order to exercise this option.

The recommendations for alternate placement and Specialized Services should be explained to the individual and/or their legal representative. If possible, they should have the opportunity to visit the proposed placement (or a placement similar to the one they might need) so that they clearly understand the placement option they are declining.

The individual and/or legal representative should submit documentation supporting that the individual chooses to exercise their option to stay in the nursing facility while participating in Specialized Services. If not participating in Specialized Services, individual is to be placed in an alternative setting. The supporting documentation must include that the individual received explanations regarding the OBRA Determination, Alternative Placement, Specialized Services, and the Thirty Month Rule. The sample letter on the following page may be used for the required documentation.

This documentation of the individual's status as a long-term resident must be kept in the medical record at the nursing facility.
A copy of said documentation should be attached to the PASARR when available. Should the individual and/or legal representative refuse Specialized Services, the individual must be discharged from the nursing facility or file an Appeal challenging the determination.

Persons who exercise their right to remain in the nursing facility under the Thirty Month Rule **will continue to be subject to the PASARR process.**

Sample Letter -THIRTY MONTH RULE

Belinda Hawks, QIDP, MPA
Federal Compliance Section Manager and OBRA/PASARR Behavioral Health and Developmental Disabilities Administration Division of Quality Management and Planning Michigan Department of Health and Human Services Office of Specialized Nursing Home/OBRA Programs Lewis Cass Building, 5th Floor
320 South Walnut
Lansing, MI 48913

Dear Belinda Hawks,

The OBRA Preadmission Screening/Annual Resident Review Process has been explained to me. I understand that on my most recent OBRA Level II Evaluation, completed by _____Community Mental Health Services Program, an alternative community placement was recommended and the Michigan Department of Health and Human Services made a determination of No Nursing Facility/Specialized Mental Health Services.

It is my intent to exercise my right to remain in _____ Nursing Facility where I have resided since_____, under the Thirty Month Rule. Alternate placement options have been explained to me and I chose to decline at this time. I understand that I must agree to participate in Specialized Mental Health Services as a condition of remaining in the nursing facility. I also understand that I will be subject to the Annual Resident Review Process and that alternate placement may be offered again at a later date.

_____

Recipient Date Social Security #

_____ _____

Legal Representative Date

_____ _____

Community Mental Health Services Program Date OBRA Coordinator

CC: Nursing Facility
Community Mental Health OBRA Program

DO NOT REMOVE FROM NURSING FACILITY MEDICAL RECORD

CHAPTER 6

Delivery & Appeals of Determinations

Post Determination Activities

The notice of determination must indicate certain information so that the recipient knows what actually has been done and what he/she can do about it. The "Adequate Notice" and "Advance Notice" forms on the following pages are to be used in the PASARR program. These forms have been approved by the Michigan Administrative Hearing System and are **required** to be used by PASARR agencies.

The notice forms state the determination made by the MDHHS OBRA Office, the reason for the determination, and the result of the determination for the recipient. The notice also states that the recipient may appeal if he/she does not agree with the determination, who to appeal to, the time period in which to appeal, and how to go about filing the appeal.

There are two types of notice--Adequate and Advance. The type of notice required depends on whether the recipient is already receiving services or not.

All preadmission screenings will only require "**Adequate**" notice since the recipient should not already be receiving nursing facility services.

"Advance" notice is required any time a recipient was receiving services and now it has been determined that they no longer will receive those services. Generally, "Advance" notice is required only in certain cases where the annual resident review determination is different from the previous year. However, for simplicity of administration, "Advance" notice will be given for all annual resident reviews, change in conditions, hospital exempt discharges and re-evaluations.

NOTE: In the following sample letters there are shaded areas that deal with Medicaid funding. These statements only have to be inserted in the letters to the individual/legal representative if a "negative action" (i.e. No Nursing facility determination) has been made by this office.

While most of the activity in the PASARR process relates to the screening, evaluation of nursing facility and mental health service needs and the determination of appropriateness of a nursing facility stay, federal rules also provide for a number of other PASARR activities that follow the determination. The first of these activities involves assisting the person in understanding the basis of the determination. The second activity involves the process by which a person may appeal a determination with which he or she disagrees. Finally for the persons for whom PASARR means discharge from the nursing facility, there is a requirement of reporting annually to the federal government where the person has been discharged. Each of these will be discussed in the following pages.

Completing the Notice Forms and Attachments

Following review of a Level II Evaluation, the MDHHS OBRA Office will electronically send the CMHSP PASARR agency a determination letter indicating the reason for the determination, and what the result is for the recipient.

A Notice of Determination which has a "no nursing facility" determination must also be accompanied by a form entitled "Information Regarding Assistance with Alternative Placement and Specialized Services." Each CMHSP will insert information on the form applicable to the area in which the recipient currently resides. In addition to the name, address and telephone number of the CMHSP, names, addresses and telephone numbers of the local Services for Seniors Waiver Agency and the local Michigan Department of Health and Human Services (MDHHS) office must be inserted. Multi-county CMHSPs may have to insert information for multiple agencies.

Adequate Notice Form (Pre-Admission Screening)

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING, MICHIGAN 48913

NOTICE OF DETERMINATION

[DATE]

[RECIPIENT'S OR LEGAL REPRESENTATIVE'S NAME]
[ADDRESS]
[CITY, STATE, ZIP]

RE: [RECIPIENT'S NAME]
[RECIPIENT'S DATE OF BIRTH]
[RECIPIENT'S SOCIAL SECURITY NO.]

After reviewing the recent Preadmission Screening evaluation conducted for the above-named recipient, the Department of Health and Human Services has determined that ***[insert determination from MDHHS OBRA Office letter]***

This determination remains in effect until such time as a new evaluation has been completed and a new determination has been made. This will occur in one year or sooner if the recipient's condition changes.

Based on this determination, the recipient ***[insert "Result of Determination" from the MDHHS OBRA Office letter]***

****[insert *the following statement only if a negative determination is received from this office*--"The result of this determination is that Medicaid benefits for nursing facility services may be affected].**

The reason for the determination is that ***[insert reason from the MDHHS OBRA Office letter]***

The legal basis for this determination is Title 42 of the Code of Federal Regulations, sections
483.100 and following.

If you have any questions about this determination or would like to discuss it further, you may telephone or write:

Office of Nursing Home/OBRA Program
Division of Quality Management and Planning
Michigan Department of Health and Human Services
Lewis Cass Building, 5th Floor
320 South Walnut
Lansing, MI 48913-0001
Phone:(517) 241-5881
Fax:(517) 335-9067

If you do not agree with this determination, you may request an administrative hearing within 90 days of your receipt of this notice. Hearing requests must be made in writing and signed by you or your authorized representative.

To request a hearing, you may complete the enclosed form or write a letter to the Michigan Administrative Hearing System explaining why you want a hearing. Your letter should include your full name, your mailing address, your Medicaid case number (if you have one) and a telephone number where you can be reached. Mail your hearing request to:

Request for Hearing
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. BOX 30763
LANSING, MI 48909

Provide with this notice:
Hearing Request Form
Stamped Return Envelope

If you want to know more about how an administrative hearing works, call the Michigan Administrative Hearing System. The toll-free number is 1-(877)-833-0870.
Fax number is (517)-373-4147.

Advance Notice Form

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING, MICHIGAN 48909

NOTICE OF DETERMINATION

[DATE]

[RECIPIENT'S OR LEGAL REPRESENTATIVE'S NAME]
ADDRESS]
[CITY, STATE, ZIP]

RE: [RECIPIENT'S NAME]
[RECIPIENT'S DATE OF BIRTH]
[RECIPIENT'S SOCIAL SECURITY NO.]

After reviewing the recent comprehensive evaluation conducted for the above-named recipient, the Department of Health and Human Services has determined that ***[insert Determination from the MDHHS OBRA Office letter]***

This determination remains in effect until such time as a new evaluation has been completed and a new determination has been made. This will occur in one year or sooner if the recipient's condition changes.

Based on this determination, the recipient ***[insert Result from the MDHHS OBRA Office letter]***

*****[insert the following statement only if a negative determination is received from this office-"The result of this determination is that the recipient's Medicaid benefits for nursing facility services may be affected].***

The reason for the determination is that ***[insert Reason from the MDHHS OBRA Office letter]***

The legal basis for this determination is Title 42 of the Code of Federal Regulations, sections 483.100 and following.

If you have any questions about this determination or would like to discuss it further, you may telephone or write:

Office of Nursing Home/OBRA Program
Quality Management and Planning
Michigan Department of Health and Human Services
Lewis Cass Building, 5th Floor
320 South Walnut.
Lansing, MI 48913-0001
(517) 241-5881
FAX (517) 335-9067

If you do not agree with this determination, you may request an administrative hearing within 90 days of your receipt of this notice. Hearing requests must be made in writing and signed by you or your authorized representative.

You will continue to receive the effected services until the hearing decision is rendered if your request for a fair hearing is received prior to the effective date of the action.

If you continue to receive benefits because you requested a fair hearing you may be required to repay benefits. This may occur if:

- **The proposed termination or denial of benefits is upheld in the hearing decision.**
- **You withdraw your hearing request.**
- **You or the person you asked to represent you does not attend the hearing.**

To request a hearing, you may complete the enclosed form or write a letter to the Michigan Administrative Hearing System explaining why you want a hearing. Your letter should include your full name, your mailing address, your Medicaid case number (if you have one) and a telephone number where you can be reached. Mail your hearing request to:

Request for Hearing
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763
Lansing, MI 48909

Provide with this notice:
Hearing Request Form
Stamped Return Envelope

If you want to know more about how an administrative hearing works, call the Michigan Administrative Hearing System. The toll-free number is 1-(877)-833-0870.
Fax number is (517)-373-4147.

Residential Information Form- **(this form may be used and adapted to your agency)**

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING, MICHIGAN 48913

Information Regarding Assistance with
Alternative Placement and Specialized Services

It has been determined that the recipient does not require the services of a nursing facility. The nursing facility will provide assistance with discharge arrangements and will prepare a discharge summary of the services that the recipient will require, or has chosen, at least 21 days prior to discharge.

The recipient's placement options may include independent living arrangements, independent living arrangements with support services, or supervised residential placement.

The recipient or the recipient's representative may choose to obtain further assistance by contacting one of the following agencies:

_____Community Mental Health Services Program
[address]
[city, state, zip]
[telephone number]

_____Home and community-based waiver provider or AAA
[address]
[city, state, zip]
[telephone number]

_____County Department of Health and Human Services
[address]
[city, state, zip]
[telephone number]

If the recipient has been determined to require specialized services for her/his mental illness or intellectual/developmental disability, or related condition the Community Mental Health Services Program will advise the recipient or the recipient's legal representative within ten (10) days of this notice of the process for obtaining specialized services.

Each Notice of Determination must also be accompanied by a Hearing Request form and a stamped envelope addressed to the Michigan Administrative Hearing System. In order to assist the MDHHS OBRA Office and the Michigan Administrative Hearing System to appropriately track any appeals, the CMHSP PASARR agency should type "PASARR" and the name of the CMHSP in Section 3 of the Hearing Request form.

Administrative Hearings Forms

Several hearings related forms are accessible through the website below for hearings related to the Medicaid beneficiaries and Medicaid providers. The Michigan Administrative Hearing System forms are made available in Microsoft Word Format so they can be downloaded and filled in using a computer.
The forms can also be printed out on paper and completed by hand.

http://www.michigan.gov/mdhhs/0,5885,7-339-73970_5093-16825--,00.html

To contact the Michigan Administrative Hearing System for the Department of Health and Human Services:

Inquiries about the hearings process may be made to the Michigan Administrative Hearing System for the Department of Health and Human Services by calling **517-373-0722.** For Medicaid beneficiaries only a toll free number is available at **1-877-833-0870**. The fax number is **517-373-4147**. If you prefer to write, the address is:

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. BOX 30763
LANSING, MI 48909

REQUEST FOR HEARING FOR MEDICAID ENROLLEES OR WAIVER APPLICANTS

Michigan Administrative Hearing System
For the Michigan Department of Health and Human Services
PO Box 30763
Lansing, MI 48909
877-833-0870

SECTION 1 – To be completed by the PERSON REQUESTING A HEARING

Client name			Client telephone number - -	Client Social Security Number
Client address (No.& Street, Apt. No.)			Client or legal guardian signature	Date
City	State	ZIP code		
What agency took the action or made the decision that the client is appealing? Make sure to attach a copy of the letter from the agency that told the client about their decision.				Client MDHHS case number

I WANT TO REQUEST A HEARING: The following are my reasons for requesting a hearing. Use additional sheets if needed.

Does the client have physical or other conditions requiring special arrangement to attend or participate in a hearing?

☐ **NO**

☐ **YES** (Please explain here): _____

SECTION 2 – Has the client chosen someone to represent them at the hearing?

Has someone agreed to represent the client at a hearing?

☐ **NO**

☐ **YES** (If YES, have the representative complete and sign Section 3.)

SECTION 3 – Authorized Hearing Representative Information

Name of representative			Representative telephone number - -	Date signed
Representative address (No.& Street, Apt. No.)			Representative signature	
City	State	ZIP code		

SECTION 4 – To be completed by the AGENCY involved in the action being disputed by the client

Name of agency			Agency contact person name
Agency address (No.& Street, Apt. No.)			Agency telephone number - -
City	State	ZIP code	State program or service being provided to this client

This form is also available online at: www.michigan.gov/mdhhs >>Programs >>Medicaid Fair Hearings

REQUEST FOR HEARING FOR MEDICAID ENROLLEES OR WAIVER APPLICANTS

Instructions

To appeal an action related to cash assistance, food assistance, or other assistance programs, you must use the Request for Hearing form (DHS-18) available online at www.michigan.gov/mdhhs >> Doing Business with MDHHS >> Forms and Applications >> Other.

Medicaid enrollees or waiver applicants may use this form to request a hearing. You may also submit your signed hearing request in writing on any paper. This form is also available online at www.michigan.gov/mdhhs >> Assistance Programs >> Medicaid >> Medicaid Fair Hearings.

A hearing is an impartial review of a decision made by the Michigan Department of Health and Human Services or one of its contract agencies that a client believes is wrong.

GENERAL INSTRUCTIONS

- Read ALL instructions before completing the attached form.
- Complete **Section 1** using the name of the client (even if the client has a guardian or is a minor).
- Complete **Sections 2 & 3** only if the client wants someone to represent them at the hearing.
- Do NOT complete Section 4.
- Attach a copy of the notice or letter from the Agency that told the client about the change that is being appealed.
- Please make a copy for your records.
- Questions can be answered by calling toll free: **877-833-0870**.
- After the form is completed, mail or fax to:

MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
PO BOX 30763
LANSING MI 48909
Fax 517-763-0146

- The client may choose to have another person represent them at a hearing.
  - This person can be anyone the client chooses but he/she must be at least 18 years of age.
  - The client MUST give this person written permission to represent them.
  - The client may give written permission by checking **YES** in **SECTION 2 and having the person who is representing them complete SECTION 3**. **The client MUST still complete and sign SECTION 1.**
  - The client's guardian or conservator may represent them. **A copy of the court order naming the guardian must be included with this request.**

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.	
If you do not understand this, call the Michigan Department of Health and Human Services at 877-833-0870. Si no entiende esta información comuníquese al Michigan Department of Health and Human Services al 877-833-0870.	**877-833-0870**
Completion: Is Voluntary	

Delivering the Notice of Determination Form and Attachments

Providing and Interpreting the Evaluation

Federal rules require that the agency which performed the Level II Evaluation must provide a copy of the evaluation to the individual who was evaluated and to his/her legal representative. The agency is also required to interpret and explain the Level II Evaluation to the individual and the individual's legal representative.

For an individual who has a legal representative, before providing and interpreting the evaluation to the individual evaluated, the PASARR agency should contact the legal representative to determine what the legal representative's wishes are regarding providing and interpreting the evaluation to the individual. Some legal representatives may feel that the information will unnecessarily agitate or confuse the individual. If the individual does not have a legal representative who has authority to make such decisions, a copy of the evaluation and an offer to interpret and explain the evaluation must always be made regardless of the feelings that other people may have about the impact of this on the individual evaluated.

Each CMHSP PASARR agency is responsible for assuring that the MDHHS Notice of Determination and attachments are delivered to the recipient and any legal representative of the recipient. **Since Federal rules require the evaluating agency to interpret and explain the contents of the Level II Evaluation, it is strongly recommended that the notice documents be personally delivered to the individual and his/her legal representative at the same time as the Level II Evaluation.** This mode of delivery provides the most effective means of clarifying issues for the individual or his/her legal representative. It also may serve to help calm any fears the individual may have. In addition, for many individuals, the determination indicates the need for mental health services and this may provide the opportunity for beginning discussions about what services are needed and what services can be provided by what agencies. **For individuals who have been determined to no longer need nursing facility services, this provides an opportunity to discuss what community alternatives may be available and for also discussing what steps can be taken if the individual does not agree with the determination**.

In some cases, particularly with preadmission screenings in which the individual either is not permitted to enter a nursing facility or chooses not to enter a nursing facility, mailing is an adequate means of delivery. Mailing is also appropriate where the recipient or legal representative has indicated a preference for that mode of delivery. In addition, if for some reason the CMHSP PASARR agency is unable to locate or contact the recipient or the legal representative, the notice may be mailed to the last known address. For individuals who have been admitted to a nursing facility outside the CMHSP's area, the CMHSP may mail the notice and provide the explanation of the Level II Evaluation over the telephone or may make arrangements with the CMHSP which covers the area where the recipient is now located to deliver the notice and provide necessary explanations.

The Notice of Determination and attachments should be mailed or delivered to the recipient and the recipient's legal representative **within five (5) working days** of the CMHSP's receipt of the MDHHS OBRA Office's determination letter.

Certain other individuals or entities are also required to receive notice of the determination, though they do not have the right to appeal, this includes the nursing facility. **Only the individual or his/her legal representative can appeal an adverse determination.** Copies of the notice must be given to the admitting or retaining nursing facility, the individual's attending physician, and the discharging hospital in the case of a preadmission screening. The "individual's attending physician" should usually be considered any personal physician or nursing facility physician the individual may have. Mailing a copy to the physician's office or leaving an extra copy at the nursing facility addressed to the physician should be sufficient.

With regard to "attending physicians" who are hospital staff physicians and the requirement to provide the discharging hospital a copy, it is very likely that, in most cases, they will not be interested in receiving a copy of the evaluation. It is suggested that the issue be discussed with each hospital to determine their wishes. If the hospital and hospital attending physicians do not wish to receive the evaluation, request a letter indicating their preference and maintain the letter in your office records.

The delivery date of the Notice of Determination is important for determining whether the appeal has been requested in a timely manner. In order to provide the MDHHS OBRA Office and, in some cases, the Michigan Administrative Hearing System (MAHS) with that information, the form that follows must be completed and electronically submitted to the MDHHS OBRA Office for every recipient or recipient's legal representative for whom notice is provided.

NOTE: When completing the electronic Certification of Delivery form, please make sure the dates are correct. The PASARR Determination date can be found on the Determination Cover letter. The Medicaid Fair Hearing Appeals Right date is the date your agency delivered or mailed the information.

Appeals System

The Preadmission Screening/Annual Resident Review (PASARR) rules provide that the State must provide a system for an individual who has been adversely affected by a PASARR determination made by the State to appeal that determination. The rules provide that a person is adversely affected by a determination if it has been determined that the person does not require the level of services provided by a nursing facility or does or does not require specialized services. There are two parts to this system of appeals: (1) notice of the determination and (2) an opportunity for the recipient to have a hearing.

Michigan Administrative Hearing System

Adverse Determination Appeal

Recipients who wish to appeal a PASARR determination may request a hearing before the Michigan Administrative Hearing System. The Michigan Administrative Hearing System is made up of administrative law judges who have been delegated authority by the Director of MDHHS to hear appeals and make decisions based on the evidence presented. A hearing before an administrative law judge is very similar to a hearing before a circuit or probate judge. There are witnesses; the appellant has a right to be represented by an attorney or anyone he/she chooses; MDHHS is represented by a staff from the MDHHS OBRA Office, but in special cases may be represented by the Attorney General's Office.

As a practical matter, the administrative law judges usually hold hearings by speaker telephone. Witnesses or the Department representative participate by telephone. The recipient does have the right to request an in-person hearing.

NOTE: For additional information regarding the rights and responsibilities of the Fair Hearing, please see the pamphlet located in the Appendix of this manual.

Medicaid Recovery of Nursing Facility Reimbursement

Although the nursing facility cannot appeal an adverse determination for an individual, the facility may request an appeal if the MDHHS-OBRA staff determines a recovery of Medicaid funds may be warranted due to failure in following the federal mandated PASARR process.

If this is the case, the nursing facility will receive an initial notice indicating possible non- compliance of the process. The facility staff may contact CMHSP staff with questions at this point. If no additional information is received from the nursing facility, the facility will receive a second notice which outlines the recovery amount and their appeal rights and hearing information. The Hearings process is similar to the above

procedures but only will affect the nursing facility. The individual or his/her representative cannot be held responsible for any Medicaid funds recovered from the nursing facility due to their failure in following the PASARR process.

Reporting Discharge Information

The Health Care Financing Administration (HCFA) requires each state to report the number of individuals discharged from nursing facilities each year through the PASARR program.

Upon expiration of the ninety (90) day appeal period without an appeal being filed, the MDHHS OBRA Office will contact the CMHSP OBRA Coordinator and request information on the discharge status of each individual for whom a “no nursing facility” determination has been made. (Requests will not be made regarding individuals who have chosen to stay in the nursing facility under the Thirty (30) Month Rule or individuals who have been permitted to remain in the nursing facility due to transfer trauma). The OBRA Office will request any information regarding discharge planning, actual discharge dates, and, once the individual has been discharged, where they have been discharged to--a psychiatric hospital, the individual’s or a relative’s home, adult foster care, CMHSP contract home or home for the aged or other. The MDHHS OBRA Office will request updates every thirty (30) days or at greater intervals of time. For example, if a discharge planning conference is scheduled in forty-five days, an update would not be requested until after that conference.

Activities involved in obtaining this information are considered PASARR activities and the cost of the activities is covered by the current PASARR contract between the CMHSP and MDHHS.

FREQUENTLY ASKED QUESTIONS

Question: Should a Level II evaluation be completed on an individual with the primary diagnosis is delirium?

Answer: No
Rationale: Delirium is considered a medical issue and until clear it would be difficult to diagnosis the appropriate mental health diagnosis. Since a serious mental illness cannot be substantiated, no determination will be made and this individual can be admitted to the NF. The OBRA coordinator should note this on the 3877 so NF has appropriate documentation. Once the delirium clears, the NF can contact the OBRA team and submit a new 3877 with Change in Condition.

Question: Can a Dementia Exemption be used if the individual is being discharged from a psychiatric hospital?

Answer: Yes
Rationale: If dementia is the primary diagnosis and the consumer does not have a diagnosis of Intellectual/Developmental Disability.

Question: Can an individual be admitted to the nursing facility without a PAS/Level II, if they are admitted using Hospice Respite?

Answer: Yes
Rationale: The individual may be admitted for 5 days without a PAS/Level II. If they are to remain longer, the nursing facility must request a Change in Condition and submit a DCH 3877 to CMH/OBRA. (Medicaid Provider Manual, Nursing Facility Coverages, PASARR Process addresses this topic)

Question: Can a “stamped” physician signature be used on a DCH-3878 form?

Answer: No
Rationale: The DCH-3878 form must be signed by a physician's assistant or physician.

Question: Can a nurse practitioner sign at DCH-3878 Exemption Form?

Answer: No
Rationale: The DCH-3878 form **must be signed and dated** by either a physician or a physician assistant.

Question: Can a Hospital Exempted Discharge (30-day) be used for an individual in a hospital observation unit?

Answer: No
Rationale: The Hospital Exempted Discharge cannot be utilized from an Observation Bed, Emergency Department, Consumer's Home, AFC or Assisted Living Facility.

Question: Can a Hospital Exempted Discharge (30-day) be used for an individual receiving treatment on a psychiatric unit?

Answer: No
Rationale: An individual who received inpatient treatment in a psychiatric facility cannot be admitted to a nursing facility claiming this exemption.

Question: Can a Hospital Exempted Discharge (30-day) be used for an individual receiving outpatient services such as outpatient surgery?

Answer: No
Rationale: If you are aware that an individual will be receiving outpatient surgery and will need short term rehab services in a nursing facility, you may wish to begin the Level II Evaluation a couple of days prior to the surgery while still in the community and then completing the medical section and your recommendations the day of the surgery.

Question: Is a PAS required for individuals being transferred from a psychiatric unit back to their previous nursing facility?

Answer: The OBRA office strongly recommends that a Pre-Admission Screen Level II Evaluation be completed prior to the transfer from the psychiatric unit to the nursing facility.

You may want to contact the State OBRA office to discuss these cases. There is no specific Federal or State policy against the transfer. However, since an admission to a psychiatric unit is considered a significant change, the best way to determine if the individual is appropriate for nursing facility care and to ascertain if the nursing facility can continue to meet the individuals psychiatric needs, a Level II Evaluation is recommended prior to re-admission. If a PAS is not done and consumer admitted to nursing facility, that NF needs to complete a CIC 3877 upon admission back to facility.

Question: As a CMHSP, do I need to date stamp received on the front side of all DCH-3877 and DCH-3878's?

Answer: Yes
Rationale: Each CMHSP should visibly date stamp the front side of each DCH-3877 and DCH-3878 that their agency receives.

Question: As a CMHSP, do I need to include admitting DCH-3877 and DCH-3878's?

Answer: Yes
Rationale: The admitting DCH-3877 and DCH-3878 should always be uploaded into the electronic record. If the admitting DCH-3877 and DCH-3878 are not available, the reason should be clearly documented in Section A of the Psychosocial Assessment as to what took place to obtain these forms.

Question: Should a PAS be completed on a consumer in a correctional facility without a parole date?

Answer: No
Rationale: The PAS needs to be completed once the parole date is set.

Question: Can a consumer discharge from an out-of-state hospital, to a nursing facility without a Level II?

Answer: Yes

Rationale: The nursing facility must submit a CIC promptly to the CMHSP for a Level II evaluation once they admit the consumer.

APPENDIX

Miscellaneous References and Information

References

Federal Register Final Rule 11/28/16 for Centers for Medicare and Medicaid Services

https://www.federalregister.gov/documents/2016/10/04/2016-23503/medicare-and-medicaid-programs-reform-of-requirements-for-long-term-care-facilities

Medicaid Manual
Refer to the Michigan Department of Health and Human Services website for information related to the OBRA process. The web address is as follows:
http://www.michigan.gov/mdhhs/0,5885,7-339--87572--,00.html (Go to the PASARR Section, under Nursing Facilities section of the manual).

CORF (County of Financial Responsibility)
Refer to the CORF attachment of the General Fund contract for billing issues between two or more CMHSP's.

National Association of PASRR Professionals
Network with other state PASRR professionals. The organization also sponsors OBRA related webinars that your agency may find helpful. www.pasrr.org

Medicaid Beneficiary Helpline
1-800-642-3195

Medicaid Provider Helpline
1-800-292-2550

Agencies that help citizens with complaints:

State Long Term Care Ombudsman

1-866-485-9393 (toll free)
The State long-term care ombudsman advocates for residents of nursing facilities, Homes for the Aged and Adult Foster Care Homes through its network of local ombudsmen. http://www.michigan.gov/miseniors

Long Term Care Facility Complaint Hotline

1-800-882-6006

Michigan Administrative Hearing System for the MDHHS

1-877-833-0870 or 517-373-0722
http://www.michigan.gov/mdhhs/0,5885,7-339-71547_4860-16825--,00.html

Department of Attorney General (AG)

1-800-242-2873
The Attorney General investigates elder abuse and Medicaid fraud. A complaint can also be filed online at: http://www.michigan.gov/ag

Michigan Protection & Advocacy Service (MPAS)

1-800-288-5923 or (517) 487-1755
MPAS can tell you who you should call to report abuse/neglect, help you file a complaint, or investigate an abuse/neglect allegation.
Fax: (517) 487-0827 http://www.mpas.org

Centralized Intake for Reports of Abuse

1-855-444-3911
Report abuse or neglect of adults or children.

Resources for a continuum of Long Term Care Services for Providers and Consumers

Long Term Care Services

This document is a tool developed for use by Long Term Care Providers in Michigan to aid them in making appropriate referrals for persons who approach them for Long Term Care services. The guidelines should serve as a starting point for locating applicable statewide and local services for a wide range of personal needs.
http://www.michigan.gov/documents/mdch/HCBS_Comparison_Chart-FINAL_483602_7.pdf

Michigan Medicaid Nursing Home Facility Level of Care Determination

All Medicaid-reimbursed nursing facility services, or enrollment in the MI Choice Program or Program of All-Inclusive Care for the Elderly (PACE), are dependent on the beneficiary meeting Michigan's Medicaid medical/functional eligibility criteria. The Michigan Medicaid Nursing Facility Level of Care (LOC) Determination is the assessment tool utilized for that purpose. The LOC Determination is an electronic web-based system accessed through Michigan's Single Sign-On System located at http://www.michigan.gov/mdch/0,1607,7-132-2945_42542_42543_42546_42554-103102--,00.html

Nursing Facility Locator

This web site has detailed information about every Medicare and Medicaid-certified nursing home in the country. The user can compare nursing homes throughout the state.
http://www.medicare.gov/NHCompare/Include/DataSection/Questions/SearchCriteriaNEW.asp?version=default&browser=IE%7C8%7CWinXP&language=English&defaultstatus=0&pagelist=Home&CookiesEnabledStatus=True

Michigan Office of Services to the Aging

https://www.Michigan.gov/miseniors

Housing Resources*:*

Senior Housing

A FREE Resource for Your Senior Living! Simply answer the questions on our Confidential Form or call us toll free at **1-888-644-5592** to find Senior Living options near you. http://www.myseniorcare.com/

Michigan Housing Locator

MSHDA is delighted to provide this rental housing search tool to the residents and prospective residents of Michigan. MSHDA expressly disclaims all responsibility for the contents and results provided through this search. http://www.michiganhousinglocator.com/

Adult Foster Care / Homes for the Aged Facilities Statewide search for facilities http://www.dleg.state.mi.us/brs_afc/sr_afc.asp

Home Maintenance Disregard (Housing assistance for short-term NF stay):

Medicaid beneficiaries who will be residents of a long term care facility for less than six L/H months may request a disregard to divert income for maintenance of their home for a maximum of six months. Beneficiaries who have been or are expected to remain in long term care for longer than six months do not meet the criteria for this disregard. The effective date of the disregard is the first day of Medicaid eligibility as a nursing facility resident. The disregard is for a maximum of six months but may be granted multiple times if the total months do not exceed six months.

The process to obtain a six month housing allowance/home maintenance disregard for short stay nursing home residents is through MDHHS Field Office.

Information Regarding Admissions to Veterans Affairs (VA) FACILITIES:

The VA long term care facilities in Michigan are not licensed by the State of Michigan. They are not certified by Medicare and Medicaid as nursing home providers. They are operated and overseen by the U.S. Department of Military and Veterans Affairs. Any evaluation of compliance with applicable requirements is conducted by the DMVA and accrediting bodies that they may choose to have audit them. None of the state or federal requirements for nursing homes apply to the facilities you mention, including PASSAR.

Michigan Department of Health and Human Services Resources:

MDCH Healthcare Provider Information

Using these links, providers can access policies, communications, billing, reimbursement, and training information, forms, etc. specific to each program.

http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_5100-151853--,00.html

MDCH Healthcare Programs

These website offer information for service providers, managed care organizations and trading partners related to healthcare programs administered by the Michigan Department of Community Health. Programs include Medicaid, Children's Special Health Care Services, Children's Waiver, Adult Benefits Waiver, MOMS, and Plan First!:
http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945---,00.html
and PACE, AFC, and MI Choice: http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_42542_42543_42549-151741--,00.html

Mental Health and Substance Abuse Services

This website assists the user in determining who is responsible for providing Mental Health and Substance Abuse Services to Medicaid beneficiaries.

http://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_42542_42543_42548---,00.html

WHO WILL HEAR MY CASE?

An Administrative Law Judge from the State Office of Administrative Hearings and Rules (SOAHR) for DCH will hear your case.

WHO WILL BE AT TilE HEARING?

- Beneficiary (person receiving the services)
- Beneficiary's representative (if any)
- Witnesses for the Department
- Witnesses for the beneficiaries
- DCH Agency staff
- Administnative Law Judge

WHAT WILL HAPPEN AT A HEARING?

- The Administrative Law Judge will call the hearing to order, announce the title of the case, and explain what will happen at the hearing. You will have the opportunity to tell the judge the reason you requested the hearing.

- You will be allowed to question agency representatives and witnesses. Agency representatives will be allowed to question you and your witnesses.

- The hearing will be tape-recorded.

- If you do not understand the questions being asked of you, the ALJ will assist you.

IIOW AM 1NOTIFIED OF THEALl DECISION?

The ALJ will not make a decision regarding your case at the hearing. You will receive a written Decision and Order from tbe judge in the mail.

WHAT IF I DISAGREE WITH THE DECISION?

If you are dissatisfied witb the Decision and Order, you may appeal to the circuit court of the county in which you live and/or request in writing a rehearing with the SOAHR for DCH within thirty (30) days of your receipt of tbe Decision and Order.

HEALTH INFORMATION DISCLOSURE

The request for hearing and all relevant information including health information necessary to conduct a comprehensive and fair hearing will be disclosed to all parties of the hearing and will be used for purposes related to the hearings process. This information is subject to disclosure under Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule witbout a written authorization. This information is necessary in order to conduct a review of the recipient's right to coverage or payment for certain health care services and is used for the purposes of payment, health care operations, and the administration of a medical assistance program. Recipients may have an individual(s) attend tbeir hearing or speak on their behalf. By bringing an individual(s) to the hearing or having an individual speak on behalf of the recipient, it is inferred that tbe recipient agrees tbat his or her protected healtb and payment information be disclosed in his or her presence.

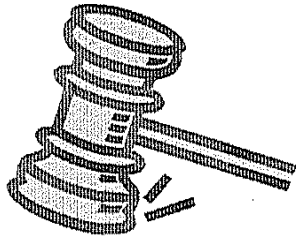
If you have further questions, please write to:
STATE OFF1CE OF ADMINISTRATIVE HEARINGS & RULES FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. BOX 30763
LANSING, MI 48909

Email at
administrativetribunal@michigan.gov
Or call (877) 833-0870

42 CFR 431200 *et seq.*,
42 CPR 438.1 *et seq.*
45 CPR Part 160 and Part 164

DCH 4829-0700 (SOAHRl Rev. 12/08

MEDICAID FAIR HEARINGS



Rights & Responsibilities

WHEN SHOULD I REQUEST AN ADMINISTRATIVE HEARING?

You may request a hearing when you believe:

- You have been denied Medicaid assistance or services.
- Medicaid services you are currently receiving have been reduced, suspended, or terminated.
- An action on your Medicaid case has been unreasonably delayed.
- You feel the Department of Community Health (DCH) or its contractor has taken an action in error.
- You believe a nursing care facility has incorrectly determined that you must be transferred or discharged.
- You believe the State has made an incorrect decision concerning preadmission and annual resident review requirements.

HOW LONG DO I HAVE TO REQUEST A HEARING?

You have ninety (90) days to request a hearing after you have been notified in writing of the action the Department of Community Health or its contractor has taken or is intending to take.

All denials, reductions, terminations or suspensions of Medicaid services must be provided to you in writing. This document is called a notice.

If Medicaid services have been denied, terminated, reduced or suspended and this denial, termination, reduction or suspension has not been given to you in writing, you may still request a hearing.

HOW DO I ASK FOR A HEARING?

A hearing request form should be mailed to you with the notice of denial, service reduction, termination or suspension. However, you are not required to use a form to request a hearing.

You can request a form for an administrative hearing at the following agencies:

- Local Department of Human Services
- Your Health Maintenance Organization
- Area Agencies on Aging
- Substance Abuse Agencies
- Your Community Mental Health Agency
- MI Enrolls – **1-888-367-6557**
- Online at **http://www.michigan.gov/mdch**
  → Click - **Inside Community Health**
  → Click – **Operations Administration**
  → Click - **Administrative Tribunal**

All hearing requests must be in writing and signed by you or your legal guardian. Your request should identify the action or lack of action with which you disagree and the type of service that is involved.

UNDER WHAT CIRCUMSTANCES WILL I CONTINUE TO RECEIVE SERVICES?

If you are receiving assistance or a service and it is to be reduced, suspended or terminated, you should be mailed a notice telling you the "effective date" of the reduction, suspension or termination.

If you file a hearing request in writing before the effective date of the action, you will continue to receive the benefits until the hearing is held and a decision is made.

HOW WILL I BE NOTIFIED OF THE HEARING DATE AND LOCATION?

A notice of the date, time and location of the hearing will be mailed to you.

This notice will also give you instructions to follow if it is impossible for you to attend the hearing on the date it is scheduled.

WHERE WILL THE HEARING BE HELD?

Most hearings will be held over the telephone. The Administrative Law Judge (ALJ) remains in his/her office and connects all parties by phone.

You may:

- Remain at home
- Visit your local Department of Human Services (DHS)
- Visit your local Community Mental Health (CMH) Agency
- Visit your local Area Agency on Aging
- Visit your local Substance Abuse Agency

When you request an in-person hearing, the hearing will be held at your local DHS or CMH Agency, or if you are located in Wayne County, at Cadillac Palace in Detroit. You or your representative and the ALJ will be the only individuals attending in-person.

MAY I HAVE SOMEONE REPRESENT ME AT THE HEARING?

An attorney, friend, client advocate or a family member may represent you. The Department cannot provide you with an attorney or pay attorney fees. You must inform the DCH, in writing, of the name of your hearing representative.

MISC:

CMS Medicaid ICD-10
http://www.cms.gov/Medicare/Coding/ICD10/index.html?redirect=/ICD10/01 Overview.asp

MDCH ICD-10 Information page:
http://michigan.gov/5010icd10

MDCH OBRA Office will be closed on the following State holidays:

New Year's Eve and New Year's Day Martin Luther King Day
President's Day Memorial Day Independence
Day Labor Day
Election Day (First Tuesday in November, even numbered years) Veteran's Day
Thanksgiving and the Friday after Christmas Eve and Christmas Day

Emergency Preparedness Procedures:
(Natural Disasters or Other Emergency Situations)

Preadmission Screening and Resident Review (PASRR)
Requirements during emergency displacement of nursing facility residents

Federal statute and regulations require all applicants to a Medicaid-certified nursing facility (NF) to be screened for intellectual disability or related conditions (ID), and serious mental illness (MI). This is required of all persons a NF admits, whether or not reimbursed by Medicaid. Applicants or residents with indication that they may have MI or ID are then subject to various requirements for evaluation, determination, placement, and service provision.

During natural disasters or other emergency situations that overwhelm the individual facility emergency preparedness procedures in a region or state, CMS wishes to remove barriers to care for displaced NF residents, and reduce as much as possible any administrative burden from PASRR on receiving facilities and states. At the same time, CMS is committed to meeting the unique MI/ID needs of the residents at a time of significant trauma.

The following are answers to questions developed in response to previous emergencies — CMS does not have a fixed official policy to due to the unique nature and scope of each emergency situation. Familiarity with your state PASRR requirements is assumed. Further, if these guidelines conflict with advice from Survey Agencies or CMS Survey and Certification Group, we defer to their requirements until we meet to resolve inconsistencies.

We are happy to discuss omissions or concerns about these comments; if possible, please coordinate with your state PASRR program first. CMS will work with each affected state to achieve maximum flexibility while meeting the needs of NF residents.
Contact Dan Timmel at 410-786-8518,daniel.timmel@cms.hhs.gov, or your regional CMS office.

Issue	Risk	CMS comment
Issues affecting in-state and out-of-state transfers		
1. NF receives transfer of an individual without record of PASRR Level I Screen	NF concern that payment is not allowed for a person admitted without a Level I Screen	Transfers are not subject to the requirement for PASRR Level I prior to admission, but are subject to Resident Review upon a change in condition. Therefore, payment will not be denied based on the absence of a Level I screen. When an evacuated resident has no documented Level I screen upon transfer, the NF is responsible to see that the screen is performed, to complete the resident's record and to ensure that the resident receives a Level II evaluation if needed. When sufficient documentation regarding the transferred evacuee is not available to properly complete the receiving state's Level I screen, CMS will not consider the NF or the state to be out of compliance if the NF documents the situation, assesses the individual in any way necessary to determine if there is a possibility of MI/ID, and refers for Level II evaluation where indicated.
2. NF receives transfer of an individual with indication that PASRR Level II Evaluation and Determination is needed, but no record is available	NF concern that FFP is not allowed when a person needing Preadmission Screening (PAS) is admitted before the PASRR Determination is made	As inter-facility transfers, the requirement is for Resident Review (RR), not PAS. [483.106(b)(4)] Therefore, payment will not be denied for lack of a PAS on record at time transfer. Facilities should enter the PAS into the record when it is available. Facilities may also wish to consider an emergency Categorical Determination, if the state has established a relevant category. CMS will not consider the NF or the state out of compliance if a needed Level II evaluation is delayed for an evacuated individual, but documentation shows that the evaluation is requested promptly, and performed as soon as resources are available.
3. NF receives a displaced person for admission who is not a transfer from a Medicaid-certified NF, or the person's previous status is not clear	NF concern that FFP is not allowed for a person admitted without a Level I Screen	The NF, or other entity specified by the state, should perform a Level I Screen. CMS will not consider the NF or the state to be out of compliance or withhold FFP if documentation shows that due to the emergency situation, a Level I Screen was performed upon admission, or within 2 days of admission, and Level II Evaluation is initiated per state procedures if indicated.

Issue	Risk	CMS comment
4. Level of Care (LOC) a. NF receives residents evacuated from an ICF/IID, hospital, or other specialized facility, and the individual's needs are greater than NF LOC b. It is not clear whether the person currently meets NF LOC c. The individual's needs are less than NF LOC	NF being out of compliance, and FFP not available for individuals who do not meet the NF level of care	Level of care determinations are state medical necessity requirements and CMS has no authority to suspend such requirements. Emergency guidance from the state and from CMS Survey and Certification should control admitting practices regarding LOC. However, because PASRR determination of need for NF is connected to LOC, the following information may be useful: a. To the extent that a NF admits individuals from a higher level of care, the NF would be required to provide all needed services until the individual can be discharged to an appropriate level of care. MI/ID needs at the hospital or ICF/IID LOC are unlikely to be met in a NF. (Be aware that FFP is unlikely to be available.) b. CMS is aware that some evacuees will lack records, and that even when records are present, pre- evacuation LOC may be inaccurate due to the effects of the emergency on the individual. c. To the extent that a NF admits individuals who do not meet the paying State's level of care requirements, the State would control availability of Medicaid payment for those individuals. CMS will not consider the NF or the state out of compliance or withhold FFP for admitting evacuated individuals who upon later Level II evaluation (as soon as resources are available) are found not to need NF LOC. However, placement as indicated by the Level II evaluation must be made as soon as resources permit.
Issues affecting out-of-state transfers		

Issue	Risk	CMS comment
5. There is no inter-state PASRR agreement between the sending and receiving states	No Federal penalty, but facilities may be confused about resident needs, and payment difficulties may arise between states	The state of residence has responsibility to pay for PASRR functions, or have a reciprocal agreement with the receiving state. Depending on the number of evacuated NF residents, and the length of stay, states may wish to make retroactive interstate PASRR agreements.
6. A resident transferred from another state has PASRR Level II documentation in their record, sufficient for planning care but not compliant with the receiving state's PASRR documentation standards	NF being out of compliance with state PASRR procedures that differ from the sending state	If the documentation is not compliant with state PASRR rules, but is sufficient for care planning, the receiving state may allow NFs to accept the existing Level II data. CMS will not expect a new evaluation, if documentation shows that the PASRR data received with the out-of-state resident can be used by the care planning team as sufficient and in lieu of an in-state PASRR Evaluation and Determination.
7. A resident transferred from another state has PASRR Level II documentation in their record, but the information is not meaningful in the receiving state (e.g., differing terminology, level of detail, or definitions of Specialized Services)	NF being out of compliance with state PASRR procedures that differ from the sending state; and FFP is not available for a resident with MI/ID who lacks a valid Level II Determination that NF is appropriate	The NF should ensure that the individual receives a Level II screening that can be used in care planning. CMS will not consider the NF or the state out of compliance or withhold FFP when documentation shows that due to evacuation a transferred resident lacked a useable Level II Determination that NF is appropriate, so long as Level II evaluation is conducted as soon after admission as resources are available.

Issue	Risk	CMS comment
8. A resident transferred from another state with MI/ID is considered appropriate for NF placement in the state of origin but documentation or examination shows the individual is not appropriate according to the PASRR criteria in the receiving state	NF being out of compliance with state PASRR procedures that differ from the sending state, and FFP not available for a resident with MI/ID who lacks a Level II Determination that NF is appropriate	The NF is responsible to admit only residents for whom it can provide or arrange for all medically necessary care and services. If the well-being of the transferred resident and/or other residents are compromised, the transferred resident should be immediately placed in another facility per the standards of the receiving state. CMS will not consider the NF or the state out of compliance or withhold FFP if documentation shows that due to evacuation an individual is admitted to a NF under the sending state's PASRR Determination, and the receiving NF either: A. provides or arranges for all medically necessary care and services; or B. makes alternative placement for the individual as soon as resources allow.
9. The sending state defines Specialized Services as services provided in the NF to augment NF services, while the receiving state defines Specialized Services as hospitalization or other placement not in a NF	NF being out of compliance with state PASRR procedures that differ from the sending state, and FFP not available, if the services which would fulfill the conditions under which an individual was deemed appropriate for NF, cannot be provided	The NF should not admit a resident if it cannot provide or arrange for all medically necessary care and services. If this circumstance of differing definitions of SS exists, the NF should contact the state Medicaid agency for guidance. Because of the complexity involved with state definitions of SS, CMS requests that the state Medicaid agency contact CMS as listed above, so that we can better understand and coordinate the interstate responses to this emergency.
Issues of payment to both sending and receiving facilities Not directly related to PASRR, but these issues may be of concern to both facilities and Medicaid Agencies during an emergency situation.		

Issue	Risk	CMS comment
10. Reimbursing both sending and receiving facilities for NF services provided on the same date	Either the sending or receiving facility will receive no reimbursement for NF services provided	In an emergency, an evacuating facility may transfer some of its operation to another location, or send staff to a receiving facility. The evacuating and receiving facility cannot both bill Medicaid because of requirements for full payment to a single provider. The CMS National Institutional Reimbursement Team (NIRT) can assist the state Medicaid agency in developing a reimbursement SPA that provides for a pass- through amount to the facility that is not billing directly.
11. An evacuated facility is providing services to some residents in a location that is not a certified facility and therefore does meet the conditions of participation.	Facility will be found out of compliance	The state survey agency must provide direction for this circumstance, and this possibility should be anticipated in the facility's emergency preparedness plan