



Division of Provider Services & Quality Assurance
P.O. Box 8059, Slot S409, Little Rock, AR 72203-8059

MEMORANDUM

TO: Nursing Home Administrators, Nursing Facilities, ICFs/MR 16 Beds and Over, HDCs, ICFs/MR Under 16 Beds, Interested Parties, DHS County Office

FROM: Martina Smith, Director, Division for Provider Services and Quality Assurance

DATE: May 28, 2021

RE: Advisory Memo – PASRR Waiver – Rule 1 and Rule II

In response to the Covid-19 pandemic, DHS identified programs and services that required changes to provide the best assistance to individuals during such a challenging time. 42 CFR § 483.20(k) requires pre-admission screening for prospective nursing home residents to identify persons with a mental illness or developmental disability (MI/DD). CMS granted an 1135 waiver for Arkansas waiving pre-admission screening on April 2, 2020. Specifically, the approval for the Federal Section 1135 waiver request stated:

- Section 1919(e)(7) of the Act allows Level I and Level II assessments to be waived for 30 days. All new admissions can be treated like exempted hospital discharges. After 30 days, new admissions with mental illness (MI) or intellectual disability (ID) should receive a Resident Review as soon as resources become available.
- Per 42 C.F.R. §483.106(b)(4), new preadmission Level I and Level II screens are not required for residents who are being transferred between nursing facilities (NF). If the NF is not certain whether a Level I has been conducted at the resident's evacuating facility, a Level I can be conducted by the admitting facility during the first few days of admission as part of intake. Transfers with positive Level I screens would require a resident review.
- The 7-9-day timeframe for Level II completion is an annual average for all preadmission screens, not individual assessments, and only applies to the preadmission screens (42 C.F.R. §483.112(c)). There is not a set timeframe for when a resident review must be completed, but it should be conducted as resources become available.

The 1135 waiver is set to end “upon termination of the public health emergency, including any extensions.”

In response to this declaration and waiver, the Department of Human Services suspended parts of two rules of the Procedures for Determination of Medical Need for Nursing Home Services:

1. Rule I to the extent it prohibits facilities from admitting individuals with diagnoses or other indicators of MI/DD; and,
2. Rule II to the extent it requires the state to complete a Level 2 assessment for MI/DD within seven (7) to nine (9) workdays from the date the MI/DD is identified by the initial screening.

By suspending these rules, nursing homes can admit individuals with diagnoses or other indicators of MI/DD without first getting an assessment and approval by the Division of Provider Services and Quality Assurance, Office of Long-Term Care (OLTC), clearing such individuals for placement in the facility. However, prior to admission, the facility must review the individual's information to ensure the facility can meet their medical and behavioral needs.

Suspending these rules also allow providers to render maximum assistance to the citizens of Arkansas and continue providing uninterrupted services during the public health emergency. These rule suspensions shall automatically end December 31, 2021, unless the legislature takes action to end them earlier. DHS will continue to provide updates to you regarding these waivers as appropriate over the next few months.