

Subchapter 2

Screening for Skilled Nursing and Intermediate Care Services

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37.40.201 PREADMISSION SCREENING, DEFINITIONS

(1) "Active treatment" means:

(a) for persons with mental retardation or a related condition, a continuous program which includes aggressive consistent implementation of a program of specialized and generic training, treatment, health services and related services that is directed toward:

(i) the acquisition of the behaviors necessary for the person 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. Active treatment does not include services to maintain a generally independent client who is able to function with little supervision or in the absence of a continuous treatment program.

(b) for persons with mental illness, the implementation of an individualized plan of care developed under and supervised by a physician and provided by physicians and other qualified mental health professionals, that prescribes specific therapies and activities under the supervision of trained mental health personnel for the treatment of a person who is experiencing an acute episode of severe mental illness.

(2) "Home and community services program" means the provision of services described in ARM 46.12.1401 through

46.12.1482 to a person in a community setting, who meets the nursing facility level of care requirements.

(3) "Level I screening" means a review of a nursing facility applicant to identify whether the applicant has a primary or secondary diagnosis or indications of mental retardation or of mental illness.

(4) "Level II screening" means an assessment applied to persons identified as having a primary or secondary diagnosis of mental retardation or mental illness which determines whether the person as a nursing facility applicant has need for the level of services provided by the nursing facility or by another type of facility and, if so, whether the individual requires active treatment.

(5) "Medicaid recipient" means a person who is currently Medicaid eligible or who has applied for Medicaid.

(6) "Mental illness" means an applicant has or has had a primary or secondary diagnosis of a major mental disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, third edition (DSM-III-R), limited to schizophrenic, paranoid, major affective, schizoaffective disorders and atypical psychosis, and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder, which is based on a neurological assessment.

(7) "Mental retardation" means:

- (a) An applicant has or has had a primary or secondary diagnosis of mild, moderate, severe or profound retardation as described in the American Association on Mental Deficiency's Manual on Classification in Mental Retardation (1983); or
 - (b) An applicant has, or has had a primary or secondary diagnosis of a condition related to mental retardation, which is a severe, chronic disability that:
 - (i) is attributable to:
 - (A) autism, cerebral palsy or epilepsy; or
 - (B) any other condition, other than mental illness found to be closely related to mental retardation due to an impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons requiring treatment or services similar to those required for these persons;
 - (ii) is manifested before the person reaches age 22;
 - (iii) is likely to continue indefinitely; and
 - (iv) results in substantial functional limitations in three or more of the following areas of major life activity:
 - (A) self-care;
 - (B) understanding and use of language;
 - (C) learning;
 - (D) mobility;
 - (E) self-direction or;
 - (F) capacity for independent living.
- (8) "Nursing facility" means an institution or a distinct part of an institution which is not primarily for the care and treatment of mental diseases, and is primarily engaged in providing either:
- (a) skilled nursing care and related services for residents who require medical or nursing care;
 - (b) rehabilitation services for the rehabilitation of injured, disabled or sick persons, or
 - (c) on a regular basis, health-related care and services to persons who because of their mental or physical condition require care and services above the level of room and board which can be made available to them only through institutional facilities.
- (9) "Nursing facility applicant" means any person who has been referred for or is applying for admission to a nursing facility or the home and community services program.
- (10) "Preadmission screening" means a medical, psychological and social evaluation of a nursing facility applicant which:
- (a) is performed prior to entry to a nursing facility or the home and community services program and includes:
 - (i) a level I screening to determine if an applicant has a diagnosis or indication of mental illness or mental retardation;
 - (ii) a level II screening if an applicant is found by the level I screening to need further assessment; and
 - (iii) a nursing facility screening which determines an applicant's need for nursing facility services.
- (11) "Preadmission screening team" means:
- (a) for a nursing facility services determination, a licensed registered nurse and a department long term care specialist;

(b) for a level I screening, a long term care specialist or other professional approved by the department; and

(c) for a level II screening, employees or contractors of the state mental retardation authority or the state mental health authority.

(12) "Problems" means functional impairments, including those involving walking, bathing, grooming, dressing, toileting, transferring, feeding, bladder incontinence, bowel incontinence, special sense impairments (such as speech or hearing), mental and behavioral dysfunctions.

(13) "State mental health authority" means the Montana department of corrections.

(14) "State mental retardation authority" means the developmental disabilities division of the Montana department of public health and human services.

(History: Sec. 53-2-201, 53-5-205, 53-6-113 and 53-6-402, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-111, 53-6-131, 53-6-141 and 53-6-402, MCA; NEW, 1983 MAR p. 863, Eff. 7/15/83; EMERG, AMD, 1989 MAR p. 439, Eff. 4/14/89; TRANS, from SRS, 2000 MAR p. 489.)

37.40.202 PREADMISSION SCREENING, GENERAL REQUIREMENTS

(1) This rule provides the preadmission screening requirements of the Montana Medicaid program for applicants to nursing facilities participating in the Montana Medicaid program.

(2) Nursing facility applicants must undergo a level I screening prior to admission to a nursing facility.

(a) A level I screening may result in the following determinations which will apply as indicated:

(i) a nursing facility applicant who has no diagnosis or any indications of mental retardation or mental illness will:

(A) if not a medicaid recipient, receive a copy of the level I screen. No further action will be taken by the department; and

(B) if a medicaid recipient, undergo a level of care determination for nursing facility services.

(ii) a nursing facility applicant who has a diagnosis or indications of mental retardation or mental illness will be referred to either the state mental health authority or the mental retardation authority for a level II screening unless determined by the level I screening to be within one of the exceptions provided for in (3)(a) of this rule.

(3) A nursing facility applicant who has a diagnosis or indications of mental retardation or mental illness may enter a nursing facility only if the applicant is determined to be in need of nursing facility services and is allowed to enter as provided for in (3)(a) or (b) of this rule;

(a) A person with a diagnosis or indications of mental retardation or mental illness who is in need of nursing facility services may enter a nursing facility without a level II screening or a determination of appropriate active treatment, if either:

(i) the person is being discharged from an acute care facility and admitted to a nursing facility for recovery from an illness or surgery for a period not to exceed 120 days and is not a danger to self or others;

(ii) the person is certified by a physician to be terminally ill (prognosis of a life expectancy of six months or less) and is not a danger to self or others;

(iii) the person is comatose, ventilator dependent, functioning at the brain stem level or diagnosed as having chronic obstructive pulmonary disease, severe Parkinson's disease, Huntington's Chorea, amyotrophic lateral sclerosis, congestive heart failure or other similar diagnosis which prohibits the person from participating in active treatment; or
(iv) the person has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder, based on a neurological examination.

(b) A level II screening may result in the following determinations which will apply as indicated:

(i) Any person with mental retardation or mental illness determined not to be in need of nursing facility services, whether or not active treatment services are required, shall be considered inappropriate for placement or continued residence in a nursing facility;

(ii) Any person with mental retardation or mental illness determined to be in need of active treatment services shall be considered inappropriate for placement or continued residence in a nursing facility;

(iii) Any person with mental retardation or mental illness determined to be in need of nursing facility services but not to be in need of active treatment services shall be considered appropriate for placement or continued residence in a nursing facility;

(iv) Any person with mental retardation or mental illness determined to be in need of both nursing facility services and active treatment, who is of advanced years, competent to make an independent decision and who is not a danger to self or others shall be considered appropriate for placement or continued residence in a nursing facility if the person so chooses.

(4) Medicaid recipients must be determined by a preadmission screening team to require nursing facility services before Medicaid payment for services in a nursing facility or the home and community services program will be authorized.

(a) If a person is Medicaid eligible prior to admission to a nursing facility, a nursing facility screening must be requested prior to admission. Payment for nursing facility care shall be effective on the date of entry to the nursing facility if the applicant meets all eligibility requirements.

(b) If the person applies for Medicaid while a resident of a nursing facility, the nursing facility screening must be done prior to initial Medicaid payment. Payment shall be effective on the date of the nursing facility screening or the date of referral to the preadmission screening team, whichever is earlier.

(5) Retroactive approval for nursing facility services is available only if:

(a) the applicant is determined to be financially eligible for Medicaid during the retroactive period; and

(b) the applicant had undergone a determination of need for nursing facility services either by the preadmission screening team or for purposes of Medicare payment; and

(c) the applicant was determined to be in need of nursing facility services as a result of the screenings.

(6) A nursing facility applicant who is not a Medicaid recipient may request that a nursing facility screening be conducted. This screening will be performed by the preadmission screening team.

(7) Preadmission screening will be performed by persons the department determines are qualified to conduct the various elements of the screening.

(8) A nursing facility admitting a nursing facility applicant for whom a level I screening or a nursing facility screening has not been conducted may be subject to the sanctions provided at ARM 37.85.502 and to any other measures that federal or state authorities deem appropriate and necessary for the purposes of the federal Social Security Act. (History: Sec. 53-6-113 and 53-2-201, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-141 and 53-6-402, MCA; EMERG, NEW, 1989 MAR p. 439, Eff. 4/14/89; TRANS, from SRS, 2000 MAR p. 489.)

Rules 03 and 04 reserved

37.40.205 PREADMISSION SCREENING, NURSING FACILITY SERVICES

(1) For elderly persons and physically disabled persons, the need for nursing facility service will be determined based upon the following criteria:

(a) The services of a skilled nursing facility (SNF) are needed when a person meets the criteria for skilled care as defined by Title XVIII of the Social Security Act.

(b) The services of an intermediate care facility (ICF) are needed when a person:

(i) does not qualify for skilled nursing facility care; and

(ii) is determined by the department or its designee to need care at a level higher than personal care;

(c) In order to receive home and community services, an applicant must be determined to be at risk of or require care at the intermediate level as determined by the department or its designee through a functional rating of the person. The need for such care is indicated when the person:

(i) is able to ambulate (walk or wheel) to a dining room or equivalent;

(ii) is capable of self care with minimal assistance;

(iii) has four or fewer problems determined to be low level by the department or its designee; and

(iv) requires no more than one-hour of nursing care per 24 hours.

(d) A candidate for discharge is a person who has two or less problems. This criteria does not apply to persons with a diagnosis of mental illness or mental retardation.

(2) For mentally retarded persons applying for the home and community services program, the appropriate nursing facility services will be determined based upon the following criteria:

(a) The services of an intermediate care facility for the mentally retarded (ICF/MR) are needed when a mentally retarded person:

(i) has severe medical problems requiring substantial care, but not to the extent that habilitation is impossible;

(ii) has extreme deficits in self-care and daily living skills which require intensive training; or

(iii) has significant maladaptive social and/or interpersonal behavior patterns which require an on-going, supervised program of intervention.

(b) Skilled nursing facility (SNF) level of care is needed when a person with mental retardation meets the requirements for SNF services as found in (1)(a) of this rule.

(History: Sec. 53-2-201, 53-6-113 and 53-6-402, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-402, MCA; EMERG, NEW, 1989 MAR p. 439, Eff. 4/14/89; TRANS, from SRS, 2000 MAR p. 489.)

37.40.206 PREADMISSION SCREENING, REDETERMINATION OF NEED FOR NURSING FACILITY SERVICES

(1) For a person who is identified as in need of nursing facility services, and is enrolled in the home and community services program, a redetermination of the need for nursing facility services will take place 90 days after enrollment and every 180 days thereafter.

(2) For a person who is identified as in need of nursing facility services in an intermediate care facility for the mentally retarded (ICF/MR) and is enrolled in the home and community services program, a redetermination will be conducted annually.

(History: Sec. 53-2-201, 53-6-113 and 53-6-402, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-402, MCA; EMERG, NEW, 1989 MAR p. 439, Eff. 4/14/89; TRANS, from SRS, 2000 MAR p. 489.)

37.40.207 PREADMISSION SCREENING, QUALIFIED MENTAL RETARDATION PROFESSIONAL

(1) The department will approve persons as qualified mental retardation professionals for purposes of providing preadmission screening and Medicaid related case management services.

(2) Qualified mental retardation professional means a person who has specialized training or one year of work experience in habilitation or related services with mentally retarded or other developmentally disabled individuals.

(3) The department will accept as evidence of specialized training the following factors:

(a) licensure or certification in a profession which involves direct care to developmentally disabled persons;

(b) documentation of training, such as certification as a developmental disabilities client programming technician; or

(c) certification as a developmental disabilities professional person.

(4) The department will accept as evidence of work experience documentation of supervised employment in direct care to developmentally disabled persons.

(History: Sec. 53-2-201, 53-6-113 and 53-6-402, MCA; IMP, Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-402, MCA; EMERG, NEW, 1989 MAR p. 439, Eff. 4/14/89; TRANS, from SRS, 2000 MAR p. 489.)