

(C) Comprehensive psychiatric evaluation;

(D) Functional assessment; and

(ii) To make the determination required in paragraph (d) of this section.

(d) *Data interpretation.* Based on the data compiled, a qualified mental health professional, as designated by the State, must validate the diagnosis of mental illness and determine whether a program of psychiatric specialized services is needed.

§ 483.136 Evaluating whether an individual with mental retardation requires specialized services (PASARR/MR).

(a) *Purpose.* The purpose of this section is to identify the minimum data needs and process requirements for the State mental retardation authority to determine whether or not the applicant or resident with mental retardation, as defined in § 483.102(b)(3) of this part, needs a continuous specialized services program, which is analogous to active treatment, as defined in §§ 435.1009 and 483.440 of this chapter.

(b) *Data.* Minimum data collected must include the individual's comprehensive history and physical examination results to identify the following information or, in the absence of data, must include information that permits a reviewer specifically to assess:

- (1) The individual's medical problems;
- (2) The level of impact these problems have on the individual's independent functioning;
- (3) All current medications used by the individual and the current response of the individual to any prescribed medications in the following drug groups:
 - (i) Hypnotics,
 - (ii) Antipsychotics (neuroleptics),
 - (iii) Mood stabilizers and antidepressants,
 - (iv) Antianxiety-sedative agents, and
 - (v) Anti-Parkinson agents.
- (4) Self-monitoring of health status;
- (5) Self-administering and scheduling of medical treatments;
- (6) Self-monitoring of nutritional status;
- (7) Self-help development such as toileting, dressing, grooming, and eating;

(8) Sensorimotor development, such as ambulation, positioning, transfer skills, gross motor dexterity, visual motor perception, fine motor dexterity, eye-hand coordination, and extent to which prosthetic, orthotic, corrective or mechanical supportive devices can improve the individual's functional capacity;

(9) Speech and language (communication) development, such as expressive language (verbal and nonverbal), receptive language (verbal and nonverbal), extent to which non-oral communication systems can improve the individual's function capacity, auditory functioning, and extent to which amplification devices (for example, hearing aid) or a program of amplification can improve the individual's functional capacity;

(10) Social development, such as interpersonal skills, recreation-leisure skills, and relationships with others;

(11) Academic/educational development, including functional learning skills;

(12) Independent living development such as meal preparation, budgeting and personal finances, survival skills, mobility skills (orientation to the neighborhood, town, city), laundry, housekeeping, shopping, bedmaking, care of clothing, and orientation skills (for individuals with visual impairments);

(13) Vocational development, including present vocational skills;

(14) Affective development such as interests, and skills involved with expressing emotions, making judgments, and making independent decisions; and

(15) The presence of identifiable maladaptive or inappropriate behaviors of the individual based on systematic observation (including, but not limited to, the frequency and intensity of identified maladaptive or inappropriate behaviors).

(c) *Data interpretation*—(1) The State must ensure that a licensed psychologist identifies the intellectual functioning measurement of individuals with MR or a related condition.

(2) Based on the data compiled in paragraph (b) of this section, the State mental retardation authority, using appropriate personnel, as designated by

the State, must validate that the individual has MR or is a person with a related condition and must determine whether specialized services for mental retardation are needed. In making this determination, the State mental retardation authority must make a qualitative judgment on the extent to which the person's status reflects, singly and collectively, the characteristics commonly associated with the need for specialized services, including—

- (i) Inability to—
 - (A) Take care of the most personal care needs;
 - (B) Understand simple commands;
 - (C) Communicate basic needs and wants;
 - (D) Be employed at a productive wage level without systematic long term supervision or support;
 - (E) Learn new skills without aggressive and consistent training;
 - (F) Apply skills learned in a training situation to other environments or settings without aggressive and consistent training;
 - (G) Demonstrate behavior appropriate to the time, situation or place without direct supervision; and
 - (H) Make decisions requiring informed consent without extreme difficulty;
- (ii) Demonstration of severe maladaptive behavior(s) that place the person or others in jeopardy to health and safety; and
- (iii) Presence of other skill deficits or specialized training needs that necessitate the availability of trained MR personnel, 24 hours per day, to teach the person functional skills.

[57 FR 56506, Nov. 30, 1992; 58 FR 25784, Apr. 28, 1993]

§ 483.138 Maintenance of services and availability of FFP.

(a) *Maintenance of services.* If a NF mails a 30 day notice of its intent to transfer or discharge a resident, under § 483.12(a) of this chapter, the agency may not terminate or reduce services until—

- (1) The expiration of the notice period; or
- (2) A subpart E appeal, if one has been filed, has been resolved.

(b) *Availability of FFP.* FFP is available for expenditures for services provided to Medicaid recipients during—

- (1) The 30 day notice period specified in § 483.12(a) of this chapter; or
- (2) During the period an appeal is in progress.

Subpart D—Requirements That Must Be Met by States and State Agencies: Nurse Aide Training and Competency Evaluation

SOURCE: 56 FR 48919, Sept. 26, 1991, unless otherwise noted.

§ 483.150 Statutory basis; Deemed meeting or waiver of requirements.

(a) *Statutory basis.* This subpart is based on sections 1819(b)(5) and 1919(b)(5) of the Act, which establish standards for training nurse-aides and for evaluating their competency.

(b) *Deemed meeting of requirements.* A nurse aide is deemed to satisfy the requirement of completing a training and competency evaluation approved by the State if he or she successfully completed a training and competency evaluation program before July 1, 1989 if—

- (1) The aide would have satisfied this requirement if—
 - (i) At least 60 hours were substituted for 75 hours in sections 1819(f)(2) and 1919(f)(2) of the Act, and

- (ii) The individual has made up at least the difference in the number of hours in the program he or she completed and 75 hours in supervised practical nurse aide training or in regular in-service nurse aide education;

or

- (2) The individual was found to be competent (whether or not by the State) after the completion of nurse aide training of at least 100 hours duration.

(c) *Waiver of requirements.* A State may—

- (1) Waive the requirement for an individual to complete a competency evaluation program approved by the State for any individual who can demonstrate to the satisfaction of the State that he or she has served as a nurse aide at one or more facilities of the same employer in the state for at