



# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

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Immediately

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SUBJECT:

Need for ICF/MR Level of Care

BY:

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## SCOPE:

County MH/MR Administrators  
State Center Directors  
Private ICF/MR Directors  
Base Service Unit Directors

## PURPOSE:

The purpose of this bulletin is to transmit information regarding a change in the procedure for determining Intermediate Care Facility for the Mentally Retarded (ICF/MR) level of care eligibility for admissions to public and private ICFs/MR.

## BACKGROUND:

The Centers for Medicare and Medicaid Services (CMS) require that the Department have in place objective criteria and procedures for the determination and redetermination of need for an ICF/MR level of care to ensure that only individuals who require such a level of care receive it.

ICF/MR level of care criteria and procedures are applicable to individuals admitted to an ICF/MR and, since 1983, 2176 Waiver-funded programs. ICF/MR level of care criteria and procedures must be followed to determine an individual's eligibility under these Medical Assistance funded programs.

The criteria and procedures in this bulletin shall be used in conjunction with applicable State and Federal regulations, 55 Pa. Code Ch. 6210 and 42 CFR Sections 435.1009 and 456.360-370 as well as Department policy and procedures for ICFs/MR.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Appropriate Regional Mental Retardation Program Managers

## DISCUSSION

**Effective with the issue date of this bulletin, County Mental Health/Mental Retardation (MH/MR) Programs are responsible for ICF/MR level of care determinations for individuals who are seeking admission to ICFs/MR. Redeterminations for the ICF/MR level of care in ICFs/MR will continue to be the responsibility of the ICF/MR where the individual lives.** This bulletin does not apply to ICF/MR level of care determinations for the Department's Consolidated or Person/Family Directed Support Waivers. Procedures for determining ICF/MR level of care for the Department's Consolidated or Person/Family Directed Support Waivers are established in MR Bulletin 00-99-14, entitled *Individual Eligibility for Medicaid Waiver Services*.

### I. LEVEL OF CARE CRITERIA:

There are three fundamental criteria that must be met prior to an individual being determined eligible for an ICF/MR level of care for admission to an ICF/MR. The ICF/MR level of care shall be indicated only when the individual:

- 1) requires active treatment;
- 2) has a diagnosis of mental retardation; and
- 3) is recommended for an ICF/MR level of care based on a medical evaluation.

#### A. Criteria for Active Treatment

Active treatment is defined as a continuous program, which includes aggressive, consistent implementation of a program of specialized and generic training and treatment, and health and related services that are directed toward 1) the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible; and 2) prevention or deceleration of regression or loss of current optimal functional status.

An individual shall meet the criteria for needing active treatment only when a qualified mental retardation professional (QMRP), based on review of the individual's social and psychological history, determines that the individual will benefit from a professionally developed and supervised program of activities, experiences or therapies that are necessary for assisting the individual to function at his/her greatest physical, intellectual, social or vocational level.

For individuals for whom no further positive growth is demonstrated, the criteria shall be met by the QMRP's determination that a program of active treatment is needed to prevent regression or loss of current optimal functional status.

The review of the individual's social and psychological history shall consist of an interview with the individual and/or members of the individual's family and a review of notes, observations and reports from educational facilities, human service agencies, hospitals and other reliable sources when available. The review shall be done in conjunction with the individual's team.

#### B. Determination of Mental Retardation

A determination of mental retardation must meet all of the following three criteria:

1. A licensed psychologist, certified school psychologist or licensed physician who practices psychiatry certifies that the individual has significantly sub-average intellectual functioning that is documented by either:
  - a. performance that is more than two standard deviations below the mean of a standardized general intelligence test; or
  - b. performance that is slightly higher than two standard deviations below the mean of a standardized general intelligence test during a period when the individual manifests serious impairments of adaptive behavior.

AND

2. A QMRP who meets criteria established in 42 CFR 483.430 certifies that the individual has impairments of adaptive behavior based on the results of a standardized assessment of adaptive functioning that show that the individual has either:
  - a. significant limitations in meeting the standards of maturation, learning, personal independence and/or social responsibility of his or her age and cultural group; or
  - b. substantial functional limitation in three or more of the following areas of major life activity:

1) self-care	5) self-direction
2) receptive and expressive language	6) capacity for independent living
3) learning	7) economic self-sufficiency
4) mobility	

AND

3. Documentation substantiates that the individual has had these conditions of intellectual and adaptive functioning manifested during the developmental period which is between birth and the individual's 22<sup>nd</sup> birthday.

The results of both the standardized general intelligence test and the standardized assessment of adaptive functioning shall consist of:

- a. the clinical data and overall score;
- b. a statement by the certifying practitioner that the results are considered valid and consistent with the individual's degree of functional restriction; and
- c. a statement by the certifying practitioner as to whether the results indicate that the individual has mental retardation.

The requirement for a standardized general intelligence test may be waived for an individual who is unable to communicate and follow directions to the extent that the use of standardized measures is precluded. In such a situation, the requirement for the standardized intelligence test shall be substituted by a written statement from a licensed psychologist, certified school psychologist or licensed physician who practices psychiatry that the individual's inability to communicate and follow directions precludes the use of standardized measures.

The requirement for a standardized general intelligence test and assessment of adaptive functioning may also be waived for an individual after living in a nursing facility where the Department has determined that the individual requires specialized services. This requirement can be waived only upon the county's acceptance of a utilization review that affirms the individual's need for an ICF/MR level of care. The utilization review must be completed in accordance with pre-admission screening resident review (PASRR) requirements for individuals in nursing facilities, and be dated within 365 days prior to the county's determination of need for an ICF/MR level of care.

To be considered current, a standardized intelligence test and assessment of adaptive functioning must reflect the intellectual and adaptive behavior challenges that the individual currently faces, along with present social and psychological conditions.

Evaluations and assessments are to be adapted to an individual's cultural background, ethnic origin, language and means of communication such as signing for people who are hearing impaired. The assessor will arrange for appropriate persons who are competent in these matters to assist in the evaluation process as necessary.

### **C. Medical Evaluation**

Individuals meeting the criteria for an ICF/MR level of care must have a medical evaluation completed by a licensed physician not more than 60 days prior to admission to an ICF/MR or before authorization for payment. The medical evaluation can be completed using the medical evaluation form approved by the Department, currently form MA-51, or a physical examination that is completed by a licensed physician. Based on the evaluation, the physician must recommend the individual for an ICF/MR level of care, if appropriate.

## II. PROCEDURES:

### A. Initial Certification

**The County MH/MR Program, as the Department's agent, is authorized to determine ICF/MR level of care eligibility for all individuals who are applying for admission to an ICF/MR.**

The certification of the individual's mental retardation and need for active treatment shall be made by a QMRP not more than 90 days prior to the individual's admission to an ICF/MR or before payment from Medical Assistance is authorized. The certification shall be based on the criteria and evaluations stipulated in parts A and B of the previous section.

The physician shall certify in writing in the medical record that an individual needs an ICF/MR level of care. This certification shall be signed and dated no more than 30 days prior to an individual's admission to an ICF/MR or before authorization for payment from Medical Assistance is authorized. The initial certification shall be based on the criteria and evaluations stipulated in part C of the previous section.

The initial certification of need for an ICF/MR level of care shall be indicated on form MR-250, entitled *Certification Of Need For ICF/MR Level Of Care* (see Attachment 3) and on MR-250 ICF/MR Supplement, entitled *Physician's Certification for ICF/MR Admission* (see Attachment 4) in the following manner:

- 1) The QMRP shall complete MR-250, Section II, to certify that the individual has completed all standardized assessments, psychological, social and medical evaluations necessary to determine the need for an ICF/MR level of care and that the individual needs active treatment.
- 2) The County MH/MR Program designee who determines ICF/MR level of care shall complete and sign MR-250, Section III.
- 3) The physician, physician's assistant acting within the scope of practice as defined by State law and under the supervision of a physician, a nurse practitioner or clinical nurse specialist who is not an employee of the facility, but who is working in collaboration with a physician who completed the medical evaluation, shall sign MR-250 ICF/MR Supplement, Section IV, to indicate that the individual needs an ICF/MR level of care. The completed MA-251 or physical and all other required enclosures must be attached to the form as well.

The County MH/MR Program is responsible for ensuring that the completed certification forms, together with form MR-54, entitled *Consolidated and Person/Family Directed Support Waivers or ICF/MR Eligibility Application Cover Sheet* and MR-55, entitled *MA Financial Application Release Form* (see Attachments 1 and 2) and all supporting documentation are forwarded to the local County Assistance Office (CAO) at least 15 working days prior to admission, or if admitted, before payment from Medical Assistance is authorized.

If the county determines that an individual does not require an ICF/MR level of care, this determination shall be forwarded to the CAO, which will notify the individual of his/her ineligibility for ICF/MR together with his/her right to appeal and fair hearing. A copy of the CAO notice will be issued to the individual/family and to the County MH/MR Program. The County MH/MR Program shall be prepared to participate in hearings of this nature.

## **B. Annual Recertification**

Re-certification of need for an ICF/MR level of care shall be made within 365 days of the individual's admission to an ICF/MR and subsequent anniversary dates of the initial certification. The recertification shall be completed by a physician and a QMRP and shall be based on the individual's continuing need for an ICF/MR level of care, his/her progress toward meeting plan objectives, the appropriateness of the plan of care, and consideration of alternate methods of care.

In non-State operated ICFs/MR, the QMRP completing the recertification may not be an employee of the facility but shall work in collaboration with the individual's team, including the physician. Contractual arrangements with independent QMRP's or QMRP's who are employed by other facilities may be used for this purpose. QMRP's in State-operated facilities may continue to complete recertifications.

The results of the recertification shall be indicated on the attached form, MR-251, entitled *Annual Recertification Of Need For ICF/MR Level of Care* (see Attachment 5) and MR-251 ICF/MR Supplement, entitled *Physician's Annual Recertification For ICF/MR* (see Attachment 6) in the following manner:

- 1) The QMRP shall sign and date MR-251, Section II, to certify that the individual continues to qualify for an ICF/MR level of care.
- 2) The physician, a physician's assistant acting within the scope of practice as defined by State law and under the supervision of a physician, nurse practitioner or clinical nurse specialist shall sign and date MR-251 ICF/MR Supplement to indicate that the individual continues to require the ICF/MR level of care.
- 3) The County MH/MR Program signature is not needed for ICF/MR recertification for continued stay in an ICF/MR.

The ICF/MR will forward the form MR-251 and MR-251 Supplement to the CAO only if the QMRP and/or physician determines that an individual does not continue to need an ICF/MR level of care.

### **III. CONFLICT OF INTEREST**

Certification of need for an ICF/MR level of care by a QMRP, agency or facility whose function or relationship constitutes a conflict of interest will not be accepted.

The County MH/MR Program and the ICF/MR are responsible to ensure that no conflict of interest exists in the eligibility process.

Certification of ICF/MR level of care will not be accepted from:

- a) A professional employed or affiliated with an ICF/MR or nursing facility from which an individual is being referred or discharged.
- b) A professional employed by or affiliated with an agency that provides waiver-funded services.

Certification by County MH/MR staff and supports coordinators is generally acceptable as long as these persons are not directly involved in the provision of services for the individual.

#### **Obsolete Bulletins**

Mental Retardation Bulletin 99-86-11, *Need For ICF/MR Level Of Care*, issued October 1, 1986.