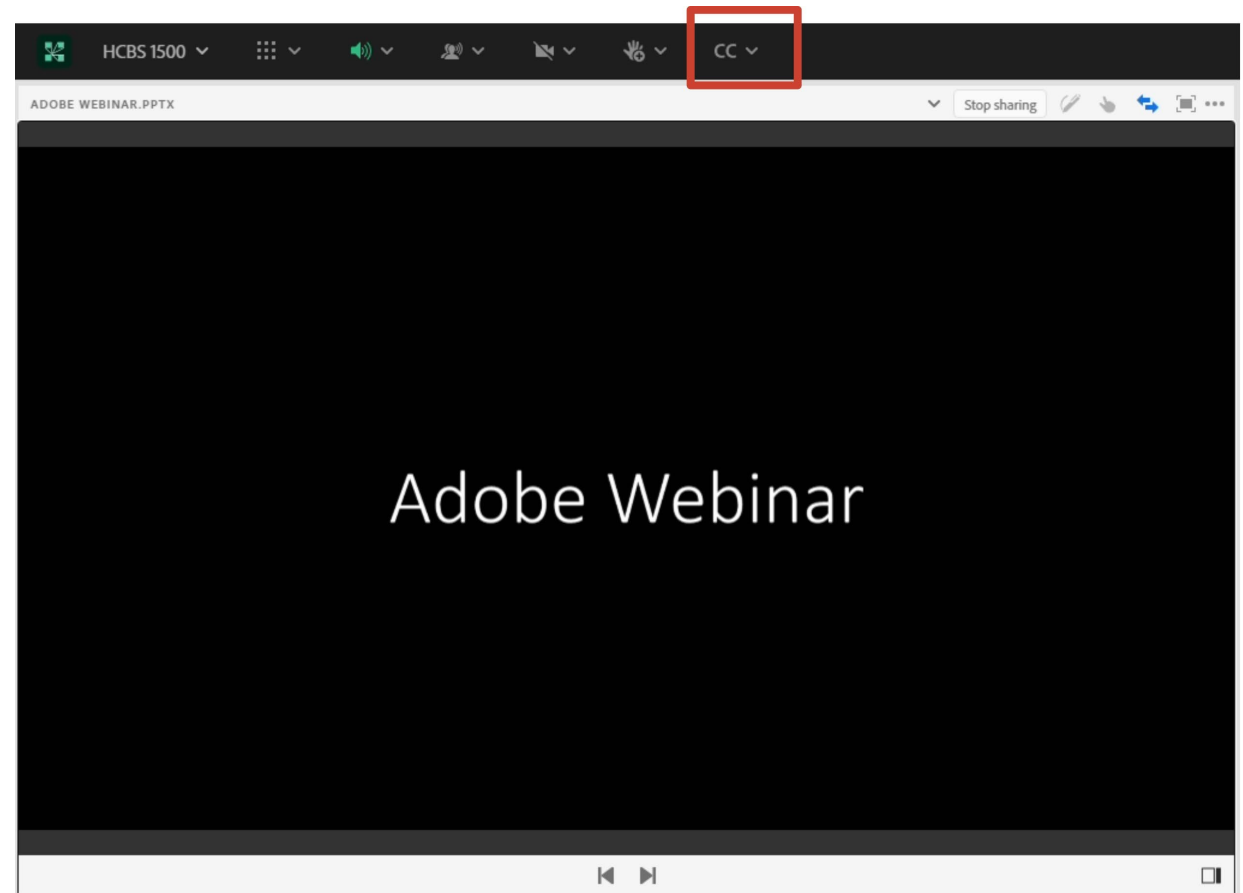


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PASRR Written Notices and Evaluation Reports

March 12, 2024

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Power and Possibility of PASRR Webinar Series

Presented by
Frank Tetrick and Teja Stokes



Learning Objectives

- Identify the three key written communications for PASRR and their meaning for various audiences.
- Learn the purpose, primary audience, and required contents for each of the written communications.
- Discuss the importance of PASRR communications using person-centered approaches and language, and additional considerations when developing and issuing PASRR communications.

PASRR Regulatory Framing

Purposes of PASRR

- To ensure that all individuals being considered for admission to a Medicaid certified nursing facility (NF) are found to meet NF Level of Care (LOC) and screened for a possible PASRR condition:
 - Mental Illness (MI);
 - Intellectual Disability (ID); and/or
 - Related Condition (RC).
- To ensure that the individual's PASRR condition service needs are identified; and
- To ensure that the individual is aware of community alternatives to the NF admission.

PASRR Administration 42 CFR §431.621

- Specifies the terms of the agreement the State Medicaid Agency (SMA) must have with the State Mental Health Authority (SMHA) and State Intellectual Disability Authority (SIDA) concerning their roles in the operation of the state's PASRR program.
- This written agreement must include:
 - Joint planning between the three state authorities;
 - Access to records when necessary to carry out the SMA's responsibilities;
 - Recording, reporting, and exchanging medical/social information about PASRR individuals;
 - Assurances that PASRR is performed timely;
 - Assurances that delegation of SMHA and SIDA responsibilities comply with the regulations;
 - Assurances that PASRR determinations are consistent with the Medicaid State Plan;
 - Designate the independent person or entity for MI evaluations; and
 - Assurances that all PASRR requirements are met.

PASRR CFR Person-Centered Expectations

[42 CFR §483.128\(c\)](#) *Participation by individual and family.* PASRR evaluations must involve—

- The individual being evaluated;
- The individual's legal representative, if one has been designated under State law; and,
- The individual's family if—
 - Available; and,
 - The individual or the legal representative agrees to family participation.

[42 CFR §483.21](#) *Comprehensive person-centered care planning—*

- NF regulations require person-centered planning which includes recommendations concerning PASRR, as applicable.

PASRR CFR Person-Centered Expectations

[42 CFR §483.128\(b\)](#) *Adaptation to culture, language, ethnic origin.*

- Evaluations performed under PASRR and PASRR notices must be adapted to the cultural background, language, ethnic origin and means of communication used by the individual being evaluated.
- In other words, use simple, understandable language, adapted to the way in which the person communicates. Describe how further information can be obtained.

PASRR Written Communication Basics

Written Communication Timelines

42 CFR §483.112(c) Timeliness

- A preadmission screening determination must be made in writing within an annual average of 7 to 9 working days of referral of the individual with MI or ID by whatever agent performs the Level I identification.

State Agencies' Responsibility for Written Communications

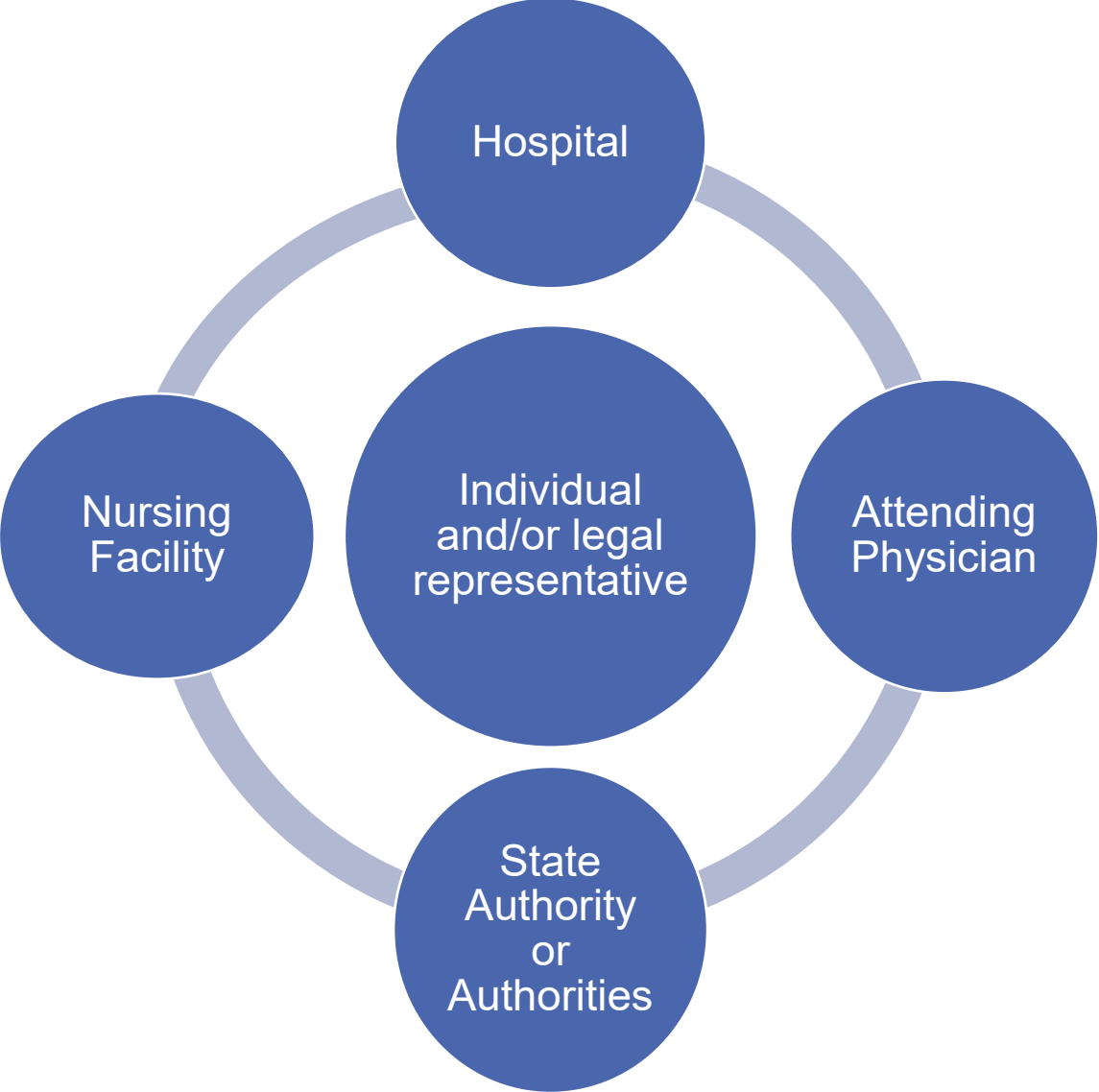
42 CFR §483.106(d) Responsibility for evaluations and determinations

- Determinations of whether an individual requires the level of services provided by a NF and whether specialized services are needed:
 - For individuals with MI, must be made by the SMHA and be based on an independent physical and mental evaluation performed by a person or entity other than the SMHA; and
 - For individuals with ID or RC, must be made by the SIDA.
- Responsibility applies to both initial determinations and determinations that follow a Resident Review based on a significant change in condition.

Three Written Notices Produced through PASRR

- [42 CFR §483.128\(a\)](#): Notice of Referral for Level II PASRR;
- Level II Evaluation Report: (Summary of Findings):
 - [42 CFR §483.128\(i\)](#) Individualized Evaluation Report; and
 - [42 CFR §483.128\(j\)](#) Categorical Evaluation Report.
- [42 CFR §483.130\(k\)](#) PASRR Level II Determination Notice.

Audiences of PASRR Notices and Reports



PASRR Notices and Reports - A Word About HIPAA

- State authorities periodically express concern about complying with confidentiality requirements in the requirements Health Insurance and Portability and Accountability Act (HIPAA);
- This can lead to delays in the PASRR process if providers are unwilling to release information about an individual to Level II evaluators without their explicit consent, because the provider believes doing so would violate HIPAA;
- HIPAA permits providers to disclose protected health information (PHI) to other providers who are caring for, or providing services to, the same individual without consent; and
- Since HIPAA permits the sharing of PHI among entities caring for or providing services to the individual, HIPAA should not be a barrier to getting PASRR done in a timely manner.

PASRR Notice of Level II Referral

Notice of Level II Referral: Purpose

- Alerts the individual and guardian that a Level II evaluation will occur, and the intent of the evaluation is to:
 - Confirm the presence of an ID, MI, or RC;
 - Determine and inform the individual of any alternatives to admission to the NF;
 - Identify any services and supports the individual may need related to their condition that would likely not be provided by the nursing facility; and
 - Inform the nursing facility plan of care, so it can include any PASRR related supports.

Notice of Level II Referral: CFR Requirements

[42 CFR §483.128\(a\)](#) The State's performance of the Level I identification function must provide at least, in the case of first time identifications, for the issuance of written notice to the individual or resident and his or her legal representative that the individual or resident is suspected of having MI or ID and is being referred to the SMHA or SIDA for Level II screening.

Notice of Level II Referral: Contents

- The Notice of Level II Referral is an explanation of the reason for the referral:
 - The Notice of Referral occurs before the Level II is initiated; and
 - The referral would identify the individual applicant or the resident and may:
 - Identify the person or entity who is completing the notice of referral and
 - Identify the suspected condition or conditions.
- **Bottom line:** The referral confirms what led to the referral and what information led the screener to recommend a more comprehensive evaluation.

Notice of Level II Referral: Recipients

- The NF applicant for any new admission request;
- The NF resident, if the referral is the outcome of a resident review and based on a significant change in condition with no prior PASRR condition; and
- The legal representative, if appropriate.

While not in the regulations, the notice may be provided to the entity that would be completing the Level II evaluation or resident review.

Individualized PASRR Level II and Categorical Evaluation Reports

Level II Evaluation Reports: Purpose

- The Level II evaluation report synthesizes the evaluation and supplemental documents to describe the person and their service and placement needs in understandable and actionable terms.
- **Reminder:** The evaluation report will inform the state of the specialized services that are recommended and may need to be provided or arranged. Clear and understandable wording is important to the recommendations being understood.

Level II Evaluation Reports: Contents (1 of 2)

42 CFR §483.128(i) **Evaluation report- Individualized determinations** —

For individualized PASRR determinations, findings must be issued in the form of a written evaluative report which:

- 1) Identifies the name and professional title of person(s) who performed the evaluation(s) and the date on which each portion of the evaluation was administered;
- 2) Provides a summary of the medical and social history, including the positive traits or developmental strengths and weaknesses or developmental needs of the evaluated individual;
- 3) If NF services are recommended, identifies the specific services which are required to meet the evaluated individual's needs, including services required in paragraph (i)(5) of this section [specialized services];

Level II Evaluation Report: Contents (2 of 2)

42 CFR §483.128(i) Evaluation report- Individualized determinations (continued)

- 4) If specialized services are not recommended, identifies any specific intellectual disability or mental health services which are of a lesser intensity than specialized services that are required to meet the evaluated individual's needs;
- 5) If specialized services are recommended, identifies the specific intellectual disability or mental health services required to meet the evaluated individual's needs; and
- 6) Includes the bases for the report's conclusions.

Level II Evaluation Reports: Recipients

[42 CFR §483.128\(I\)](#) **Evaluation report-** The evaluator must send a copy of the evaluation report to —

- 1) The individual or resident and his or her legal representative;
- 2) The appropriate State authority in sufficient time for the State authorities to meet the times identified in [42 CFR §483.112\(c\)](#) for initial screenings and as soon as possible for resident reviews based on significant change in condition;
- 3) The admitting or retaining NF;
- 4) The individual's attending physician; and
- 5) The discharging hospital if the individual is seeking NF admission from a hospital.

Categorical Evaluation Report

Categorical Evaluation Report: Purpose

- Identifies the specific state plan approved category that is being applied; and
- Confirms that existing data on the individual appear to be current and accurate and are sufficient to allow the evaluator to determine that the individual fits into the category established by the State authorities.

Categorical Evaluation Report: CFR Requirements and Contents

[42 CFR §483.128\(j\)](#) For categorical PASRR determinations, findings must be issued in the form of an abbreviated written evaluative report which:

- 1) Identifies the name and professional title of the person applying the categorical determination and the data on which the application was made;
- 2) Explains the categorical determination(s) that has (have) been made and, if only one of the two required determinations can be made categorically, describes the nature of any further screening which is required;
- 3) Identifies, to the extent possible, based on the available data, NF services, including any mental health or specialized psychiatric rehabilitative services, that may be needed; and
- 4) Includes the bases for the report's conclusions.

Categorical Evaluation Report: Recipients

[42 CFR §483.128\(I\)](#) The evaluator must send a copy of the evaluation report to the:

- 1) Individual or resident and his or her legal representative;
- 2) Appropriate State authority in sufficient time for the State authorities to meet the times identified in [42 CFR §483.112\(c\)](#) for initial screenings and as soon as possible for resident reviews based on significant change in condition;
- 3) Admitting or retaining NF;
- 4) Individual's attending physician; and
- 5) The discharging hospital if the individual is seeking NF admission from a hospital.

Level II Determination Notice

Level II Determination Notice: Purpose

- Also known as the Notice of Determination;
- Accompanies the written evaluative report; and
- Primary purpose:
 - Explains what the person needs in terms of services;
 - Outlines the facility and community placement options; and
 - Provides instructions for appealing the determination.

Level II Determination Notice: CFR Requirements

- The three main sections of the federal regulations pertaining to the PASRR Determination Notice are:
 - [42 CFR §483.130\(k\)](#) **Notice of determination;**
 - [42 CFR §483.130\(l\)](#) **Contents of notice; and**
 - [42 CFR §483.130\(m\)](#) **Placement Options.**

Level II Determination Notice: Contents (1 of 3)

42 CFR §483.130(I) **Contents of notice** Each notice of the determination made by the SMHA or SIDA must include—

- 1) Whether a NF level of services is needed;
- 2) Whether specialized services are needed;
- 3) The placement options that are available to the individual consistent with these determinations; and
- 4) The rights of the individual to appeal the determination under subpart E of this part [Appeals of Discharges, Transfers, and PASRR Determinations].

Level II Determination Notice: Contents (2 of 3)

[42 CFR §431.200\(c\)](#) Implements sections 1919(f)(3) and 1919(e)(7)(F) of the Social Security Act (the Act) by providing an appeals process for any person who:

- 1) Is subject to a proposed transfer or discharge from a NF; or
- 2) Is adversely affected by the pre-admission screening or the annual resident review that are required by section 1919(e)(7) of the Act.

[42 CFR §431.201](#) Definitions:

“Adverse determination means a determination made in accordance with sections 1919(b)(3)(F) or 1919(e)(7)(B) of the Act that the individual does not require the level of services provided by a nursing facility or that the individual does or does not require specialized services.”

Level II Determination Notice: Contents (3 of 3)

42 CFR §483.130(n) **Specialized Services needed in a NF**

If a determination is made to admit or allow to remain in a NF any individual who requires specialized services, the determination must be supported by assurances that the specialized services that are needed can and will be provided or arranged for by the State while the individual resides in the NF.

Level II Determination Notice: Recipients

[42 CFR §483.130\(k\)](#) **Notice of determination** The SMHA or SIDA must notify in writing the following entities of a determination made under this subpart:

- 1) The evaluated individual and their legal representative;
- 2) The admitting or retaining NF;
- 3) The individual or resident's attending physician; and
- 4) The discharging hospital, unless the individual is exempt from preadmission screening as provided for at [42 CFR §483.106\(b\)\(2\)](#).

Level II Determination Notice: Placement Options (1 of 6)

42 CFR §483.130(m) Placement Options

Except as otherwise may be provided in an alternative disposition plan adopted under section 1919(e)(7)(E) of the Act, the placement options and the required State actions are as follows:

- 1) Can be admitted to a NF;
- 2) Cannot be admitted to a NF;
- 3) Can be considered appropriate for continued placement in a NF;
- 4) May choose to remain in the NF even though the placement would otherwise be inappropriate;
- 5) Cannot be considered appropriate for continued placement in a NF and must be discharged (short-term residents); and
- 6) Cannot be considered appropriate for continued placement in a NF and must be discharged (short-term or long-term residents).

Level II Determination Notice: Placement Options (2 of 6)

- [42 CFR § 483.130\(m\)\(1\)](#) Can be admitted to a NF. Any applicant for admission to a NF who has MI or ID and who requires the level of services provided by a NF, regardless of whether specialized services are also needed, may be admitted to a NF, if the placement is appropriate, as determined in [42 CFR §483.126](#). If specialized services are also needed, the State is responsible for providing or arranging for the provision of the specialized services.
- [42 CFR §483.126](#) Placement of an individual with MI or ID in a NF may be considered appropriate only when the individual's needs are such that he or she meets the minimum standards for admission and the individual's needs for treatment do not exceed the level of services which can be delivered in the NF to which the individual is admitted either through NF services alone or, where necessary, through NF services supplemented by specialized services provided by or arranged for by the State.

Level II Determination Notice: Placement Options (3 of 6)

- [42 CFR § 483.130\(m\)\(2\)](#) Cannot be admitted to a NF. Any applicant for admission to a NF who has MI or ID and who does not require the level of services provided by a NF, regardless of whether specialized services are also needed, is inappropriate for NF placement and must not be admitted.
- [42 CFR § 483.130\(m\)\(3\)](#) Can be considered appropriate for continued placement in a NF. Any NF resident with MI or ID who requires the level of services provided by a NF, regardless of the length of his or her stay or the need for specialized services, can continue to reside in the NF, if the placement is appropriate, as determined in [42 CFR §483.126](#).

Level II Determination Notice: Placement Options (4 of 6)

[42 CFR § 483.130\(m\)\(4\)](#) May choose to remain in the NF even though the placement would otherwise be inappropriate. Any NF resident with MI or ID who does not require the level of services provided by a NF but does require specialized services and who has continuously resided in a NF for at least 30 consecutive months before the date of determination may choose to continue to reside in the facility or to receive covered services in an alternative appropriate institutional or noninstitutional setting. Wherever the resident chooses to reside, the State must meet his or her specialized services needs. The determination notice must provide information concerning how, when, and by whom the various placement options available to the resident will be fully explained to the resident.

Level II Determination Notice: Placement Options (5 of 6)

[42 CFR § 483.130\(m\)\(5\)](#) Cannot be considered appropriate for continued placement in a NF and must be discharged (short term residents). Any NF resident with MI or ID who does not require the level of services provided by a NF but does require specialized services and who has resided in a NF for less than 30 consecutive months must be discharged in accordance with [42 CFR §483.15\(b\)](#) to an appropriate setting where the State must provide specialized services. The determination notice must provide information on how, when, and by whom the resident will be advised of discharge arrangements and of his/her appeal rights under both PASRR and discharge provisions.

Level II Determination Notice: Placement Options (6 of 6)

[42 CFR § 483.130\(m\)\(6\)](#) Cannot be considered appropriate for continued placement in a NF and must be discharged (short and long-term residents). Any NF resident with MI or ID who does not require the level of services provided by a NF and does not require specialized services regardless of his or her length of stay, must be discharged in accordance with [42 CFR §483.15\(b\)](#). The determination notice must provide information on how, when, and by whom the resident will be advised of discharge arrangements and of his or her appeal rights under both PASRR and discharge provisions.

Level II Determination Notice: Significant Change in Condition

- A resident review is completed when the NF resident experiences or is suspected of having a significant change in condition; and
- The resident review (Level II evaluation) results in the completion of a new Notice of Determination, which must contain:
 - Whether NF services are needed;
 - Whether and what specialized services are needed;
 - Any and all available placement options that meet the identified needs of the individual and how specialized services will be addressed; and
 - Information about appeal rights.

Additional Considerations

Evaluation Termination

[42 CFR §483.128\(m\)](#) The evaluation may be terminated if the evaluator finds at any time during the evaluation that the individual being evaluated—

- 1) Does not have MI or ID; or
- 2) Has:
 - I. A primary diagnosis of dementia (including Alzheimer's Disease or a related disorder); or
 - II. A non-primary diagnosis of dementia without a primary diagnosis that is a serious mental illness, and does not have a diagnosis of ID or a related condition.

Delegation of Responsibility

42 CFR §483.106(e)(1) Delegation of Responsibility

1. The State mental health and intellectual disability authorities may delegate by subcontract or otherwise the evaluation and determination functions for which they are responsible to another entity only if—
 - i. The State mental health and intellectual disability authorities retain ultimate control and responsibility for the performance of their statutory obligations;
 - ii. The two determinations as to the need for NF services and for specialized services are made, based on a consistent analysis of the data; and
 - iii. The entity to which the delegation is made is not a NF or an entity that has a direct or indirect affiliation or relationship with a NF.

Out-of-State Arrangements

[42 CFR §483.110\(a\)](#)

(a) Basic rule. The State in which the individual is a State resident (or would be a State resident at the time he or she becomes eligible for Medicaid), as defined in [§ 435.403 of this chapter](#), must pay for the PASARR and make the required determinations, in accordance with [§ 431.52\(b\)](#).

Agreements. A State may include arrangements for PASARR in its provider agreements with out-of-State facilities or reciprocal interstate agreements.

Relationship to Other Medicaid Processes 42 CFR § 483.108

42 CFR § 483.108(c) To the maximum extent practicable, in order to avoid duplicative testing and effort, the PASARR must be coordinated with the routine resident assessments required by §483.20(b).

42 CFR §483.20(e) **Coordination.** A facility must coordinate assessments with the preadmission screening and resident review (PASARR) program under Medicaid in subpart C of this part to the maximum extent practicable to avoid duplicative testing and effort.

Coordination includes—

- 1) Incorporating the recommendations from the PASARR level II determination and the PASARR evaluation report into a resident's assessment, care planning, and transitions of care.
- 2) Referring all level II residents and all residents with newly evident or possible serious mental disorder, intellectual disability, or a related condition for level II resident review upon a significant change in status assessment.

Record Retention

[42 CFR §483.130\(j\)](#)

(i) **Recording determinations.** All determinations made by the State mental health and intellectual disability authority, regardless of how they are arrived at, must be recorded in the individual's record.

[42 CFR §483.130\(o\)](#)

(o) **Record retention.** The State PASARR system must maintain records of evaluations and determinations, regardless of whether they are performed categorically or individually, in order to support its determinations and actions and to protect the appeal rights of individuals subjected to PASARR.

Tracking System

[42 CFR §483.130\(p\)](#)

(p) **Tracking system** The State PASARR system must establish and maintain a tracking system for all individuals with MI or IID in NFs to ensure that appeals and future reviews are performed in accordance with this subpart and subpart E.

- ePASRR systems that digitally produce PASRR notices must contain all the elements required in the regulations and include a mechanism for documenting that the communication was provided to each of the required recipients.
- ePASRR systems also can be used to capture the regulatory requirement of a tracking system.
- For states that would like to receive an enhanced federal match for information technology systems to support their PASRR program, CMS encourages state PASRR program leads to work with their Medicaid Enterprise System (MES) State Officer.

Annual Reporting

- Section 1919(e)(7)(C)(iv) of the Act requires states to report to CMS annually the number and disposition of nursing facility residents not requiring nursing facility services.
- As states think about the written communications required under PASRR, the annual report is another document states must produce.
- Specifically, the statute requires the annual reporting of the number and disposition of the following nursing facility residents:
 - A resident determined not to require the level of services provided by a nursing facility, but to require specialized services and who has not continuously resided in a nursing facility for at least 30 months before the date of the determination, and
 - A resident determined not to require the level of services provided by a nursing facility and not to require specialized services.

Questions



Key Lessons Learned

- The CFR provides a clear roadmap for the type of PASRR written communications required, as well as their intended audiences and content;
- HIPAA is not a barrier to a timely completion of PASRR;
- States are responsible to provide or arrange for specialized services in all instances when identified;
- There are regulatory expectations for the PASRR program in other sections of the CFR. States are required to know and comply with these sections along with the PASRR CFR requirements; and
- All written PASRR communications must prioritize the individual as the primary audience.

Resources

- [Checklist for Plain Language](http://www.plainlanguage.gov) from www.plainlanguage.gov
- [Why HIPAA Is NOT A Barrier to Getting PASRR Done](#) – July 2015
- [What is considered a "significant change in condition?"](#) – November 2023
- [Out-of-State PASRR Arrangements: Questions & Answers](#) – January 2019
- [E-PASRR systems – Key considerations and resources for state to state consultation](#) - February 2020
- [All CMS PTAC Frequently Asked Questions](#)

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