



Out-of-State PASRR Arrangements: Questions and Answers

Adults or children who have been identified as having a Preadmission Screening and Resident Review (PASRR) disability sometimes move from a nursing facility (NF) in one state to an NF in another state. State staff members who administer PASRR programs often have questions about how such moves should be handled. For example: When does the individual need a new evaluation? And what happens if the Specialized Services an individual was receiving in State A are not available in State B?

The purpose of this brief is two-fold: (1) to establish a framework for reasoning through these questions and (2) to present a series of scenarios, formulated as questions, that address situations that commonly arise.

Basic Framework for Understanding Out-of-State PASRR Arrangements

Most questions about out-of-state PASRR arrangements can be derived from two brief sections of the Code of Federal Regulations (CFR). Specifically, 42 CFR 483.110(a) states the following:

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 §431.52(b).

42 CFR 431.52, in turn, spells out the conditions under which Medicaid payments are made for services furnished out of state:

§431.52 Payments for services furnished out of State.

(a) *Statutory basis.* Section 1902(a)(16) of the [Social Security] Act authorizes the Secretary to prescribe State plan requirements for furnishing Medicaid to State residents who are absent from the State.

(b) *Payment for services.* A State plan must provide that the State will pay for services furnished in another State to the same extent that it would pay for services furnished within its boundaries if the services are furnished to a beneficiary who is a resident of the State, and any of the following conditions is met:

(1) Medical services are needed because of a medical emergency;

(2) Medical services are needed and the beneficiary's health would be endangered if he were required to travel to his State of residence;

(3) The State determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other State;

(4) It is general practice for beneficiaries in a particular locality to use medical resources in another State.

(c) *Cooperation among States.* The plan must provide that the State will establish procedures to facilitate the furnishing of medical services to individuals who are present in the State and are eligible for Medicaid under another State's plan.

Simply put, under a small number of conditions, a State's Medicaid plan must ensure that it will pay for services provided out of state *as if the individual adult or child were still in state*. These situations include emergencies, a practice of "sending" individuals out of state (usually to receive needed services not available in state); or customary placement across state lines (typically along state borders).

Note that payment discretion lies with the state, not with the individual. If an individual chooses to leave his or her Origin State, State O (for short) has no obligation to pay for the services that the individual receives in the Destination State, or State D (for short). Moreover, State D is not obligated to pay for an individual's services until he or she first has established residence (a lengthier, more involved process than simply moving from State O to State D).

Note, too, that the CFR assumes a set of customary arrangements among states. It does not assume, let alone require, that states can, at will, "export" NF residents and expect other states to cover whatever services those residents need. Those individuals first would have to establish residency in their new state.

When Are PASRR-Specific State Agreements Needed?

In general, states do *not* need to establish agreements specific to PASRR. It is sufficient for states to engage in the sort of "cooperation among states" described in §431.52.

That said, there may be situations in which states may find it useful to establish PASRR-specific agreements. This may be of particular importance for states where, as noted at §431.52 (4), "It is general practice for beneficiaries in a particular locality to use medical resources in another State."

For administrative purposes, it may be helpful to clarify the obligations of States O and D, as sketched below, especially between two states that engage in frequent transfers, particularly as they apply to Level II evaluations and Specialized Services.

Note that nothing in law or rule requires these “extra” agreements. But these agreements may make it easier to arrive at fast, legally sound decisions, especially for staff members who are new to their position or otherwise pressed for time.

We recommend that state staff members start by consulting their general interstate agreements to see whether PASRR is explicitly mentioned there.

We also recommend that states with follow-up questions contact their Regional Office (RO) PASRR leads, and, if appropriate, the PASRR Technical Assistance Center, which can work with RO staff to provide states with guidance about any ambiguities.

Out-of-State Arrangements: Several Scenarios

The following simplified scenarios are intended to illustrate how the framework outlined above leads to reasoned judgments.

Scenario 1

Mrs. Borja has been transferred from an NF in State O to an NF in State D, just across the border.

Question: Does Mrs. Borja need a new Level II evaluation? If so, when?

Answer: While State O continues to cover Mrs. Borja, she will generally *not* need a new Level II evaluation. Instead, the Level II evaluation conducted by State O remains controlling. However, if the Specialized Services that Mrs. Borja received in State O are not available in State D, a new Level II evaluation must be performed to identify an alternative set of Specialized Services. This situation should be treated as an interfacility transfer, and the new Level II evaluation can be conducted postadmission, as a Resident Review, complete with a formal determination and notice of change to Specialized Services.

Scenario 2

After being transferred, Ms. Mendez remains in State D long enough to be considered a resident; State O then stops paying for her coverage.

Question: Is State D required to conduct a Resident Review?

Answer: Not necessarily. If Ms. Mendez already has been receiving the Specialized Services she needs—the ones first recommended in State O—State D need do nothing new (i.e., the PASRR regulations do not require any new action). However, if it has proven difficult to provide or arrange the services Ms. Mendez needs, State D should consider conducting a Resident Review. That way, Mrs. Mendez can be matched with locally available services that better meet her needs.

Scenario 3

Mr. Lim has been receiving Specialized Services A, B, and C in State O. He transfers to a nearby NF in bordering State D but is not yet a resident of State D.

Question: Is State D obligated to provide Mr. Lim with the same set of Specialized Services he was receiving in State O?

Answer: No. Specialized Services vary from state to state, as do the qualifications of individuals who provide those services. State D is not obligated to create a new set of services out of whole cloth, *even if State O continues to cover Mr. Lim's services*. At the same time, State D cannot simply ignore Mr. Lim's previous plan of care. If State D needs to match Mr. Lim to a new (locally available) set of Specialized Services, it must conduct a new Level II evaluation *at its own expense*.

Scenario 4

Mr. Caputo has been living in the community in State O but now is seeking admission to an NF in State D (perhaps because it is closer to family). However, he still is a resident of State O.

Question: When should Mr. Caputo receive a Level II evaluation? And which state should pay for it?

Answer: Because Mr. Caputo has not yet been an NF resident in any state, he must receive a Level II preadmission evaluation, as required by the CFR. In practical terms, it is essential to determine whether the NF in State D can accommodate all of his needs—including his need for Specialized Services. Until he establishes residency in State D, Mr. Caputo remains a resident of State O. And because he has moved of his own volition, State O has no obligation to pay for his services in State D. As with Scenario 3, the obligation to pay for the Level II preadmission evaluation (when the time comes) rests with State D.

Scenario 5

Mr. Johnson has been residing in State O but has been approved for admission to an NF in State D. State O completed the PASRR process and has recommended and will be paying for Specialized Services.

Question: Can State D require that its PASRR staff conduct second Level I screen and Level II evaluation?

Answer: The intent of the out-of-state arrangement is to have an out-of-state admissions process based on collaboration between the states, which should lead to a receiving state having confidence in the work done by the state of origin.

State D can choose to duplicate the PASRR, but it cannot expect State O to pay for any NF services or Specialized Services that result from the duplicate PASRR. That said, if State D is

going to be assuming responsibility for payment, then State D actually should do a new PASRR, to put this new resident on the same footing as other State D residents.

Additionally, for cases in which State O is paying, State D should not be trying to *reduce* the quantity of NF or Specialized Services the person is receiving—at least not without a conversation with State O (and proper notice to the resident about a change in service plan!).

Summary

Under a number of conditions, a State’s Medicaid plan must ensure that it will pay for services provided out of state *as if the individual adult or child were still in state*. However, states are not obligated to pay for out-of-state NF care if an individual simply chooses to leave his or her state for care in another state. Additionally, the state where an individual chooses to receive NF care is not obligated to pay for any Specialized Services, until such time that the individual becomes a resident of that state.

Although not required, it can be helpful for states to have PASRR agreements that facilitate a smooth PASRR process, especially for states where it is common practice for beneficiaries to receive services in another state. Where formal agreements are not in place, a collaborative approach to out-of-state admissions is recommended.

States are encouraged to reach out to their CMS Regional Office or the PASRR Technical Assistance Center (PTAC) for any additional guidance or technical assistance.