

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**PREADMISSION SCREENING AND
RESIDENT REVIEW FOR YOUNGER
NURSING FACILITY RESIDENTS
WITH SERIOUS MENTAL ILLNESS**



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OBJECTIVE

1. To examine the extent to which Preadmission Screening and Resident Review (PASRR) requirements were addressed for Medicaid nursing facility residents aged 22 to 64 with serious mental illness within selected States and selected nursing facilities.
2. To assess Federal and State oversight of the PASRR process.

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) mandated preadmission screening for individuals suspected of having mental illness and mental retardation or related conditions to ensure that: (1) nursing facilities admit only individuals needing nursing facility care, (2) these individuals' needs for specialized services are determined, and (3) these individuals obtain the services identified through the preadmission screening. The PASRR is the primary mechanism used to meet these objectives. This report focuses exclusively on the PASRR as it relates to individuals with mental illness. We concurrently conducted a separate review of the PASRR as it relates to individuals with mental retardation.

All individuals who apply to or reside in Medicaid nursing facilities are required to receive a Level I screen to identify suspected serious mental illness. Those suspected of having serious mental illness must receive a Level II PASRR to confirm that they have serious mental illness, to determine whether they require nursing facility services, and to determine whether they require specialized services.

The Centers for Medicare & Medicaid Services (CMS) and State Medicaid agencies are responsible for administering and overseeing the PASRR process. The State Mental Health Authorities are responsible for determining the most appropriate placement and services for each nursing facility applicant.

To assess the PASRR, we selected a purposive sample of five States. We reviewed 186 case files of Medicaid nursing facility residents aged 22 to 64 with serious mental illness from 4 purposively selected nursing facilities per State. We also interviewed State officials, nursing facility staff, and CMS staff, and reviewed States' PASRR policy documents and forms.

FINDINGS

Almost all sampled residents with serious mental illness received a Level I screen that met all Federal requirements.

We found that 90 percent (168 of 186) of sampled residents had a Level I screen. Eighty-two percent (138 of 168) of Level I screens met both timing and content requirements.

Two-thirds of sampled residents with serious mental illness had evidence of a Level II PASRR, but only 5 percent met all Federal requirements.

Sixty-seven percent (124 of 186) of sampled resident case files contained evidence of a Level II PASRR. Five percent of these Level II PASRRs met both timing and content requirements. Most Level II PASRRs contained required information regarding placement and recommended mental health services.

Eighty-five percent of sampled residents who received a Level II PASRR had mental health service recommendations. Thirty-three percent had all recommended services incorporated into their care plans.

Of those sampled residents who received a Level II PASRR, 85 percent (103 of 121) received one or more mental health recommendations. All Level II PASRRs are required to include mental health service recommendations necessary to meet the evaluated individual's needs. Thirty-three percent of residents who received mental health recommendations in their Level II PASRR had all of the recommended services incorporated into their care plans.

Consideration of community-based settings may not always occur as part of the Level II PASRR process.

Federal regulations require that Level II PASRR evaluators assess whether the individual's total needs can be met in an appropriate alternative placement to nursing facilities, including community-based settings, inpatient hospitals, and Institutions for Mental Diseases. However, only two out of five selected States' Level II evaluation forms prompt evaluators to consider community-based placement. Additionally, respondents from all five States reported concern that individuals aged 22 to 64 with serious mental illness are inappropriately placed in nursing facilities. Finally, we found that 85 percent of 2004 Level II PASRRs for individuals with serious mental illness aged 22 to 64 in the five selected States resulted in nursing home placement. Two percent resulted in community-based placement.

CMS conducts limited oversight; all five selected States monitor aspects of the PASRR process.

Most CMS regional offices report providing limited guidance and oversight to States regarding their PASRR process. To ensure that nursing facility residents receive Level I screens, all five selected State Medicaid agencies report that Medicaid payment to nursing facilities is linked to the completion of the Level I screen. While State Medicaid agencies must maintain ultimate control and responsibility over the PASRR process, only three of five selected States report that they systematically monitor the Level II PASRR process to ensure appropriate placement and treatment. Further, the nursing facility Survey and Certification process does not provide systematic oversight of the PASRR process.

RECOMMENDATIONS

The OBRA 87 mandated preadmission screening to ensure that individuals with mental illness are not inappropriately placed in Medicaid nursing facilities. The PASRR is the primary mechanism used to ensure that individuals aged 22 to 64 with serious mental illness are appropriately screened, thoroughly evaluated, and placed in nursing facilities when appropriate, and receive all necessary services. As such, it is essential that the PASRR process work effectively.

We based our findings on a purposive sample and have not made a statistical projection. However, our findings indicate that there are deficiencies in the PASRR process that should be addressed to ensure that individuals with serious mental illness are appropriately placed and receive necessary services.

We recommend that CMS hold State Medicaid agencies accountable for ensuring compliance with Federal requirements. Specifically, we recommend that:

- o every nursing facility applicant receive a Level I screen prior to nursing facility admission,
- o all individuals with a suspected serious mental illness receive a complete Level II PASRR prior to nursing facility admission and that all Level II PASRR documentation is shared with the admitting nursing facility, and
- o the admitting nursing facility incorporate all recommended services identified on the Level II PASRR into residents' care plans and provide for or arrange all of these services.

E X E C U T I V E S U M M A R Y

We also recommend that CMS hold States accountable for considering community placements during the Level II PASRR process by:

- working with State Medicaid agencies to develop tools, such as protocol, forms, and guidance to evaluators, to ensure that community-based alternatives to nursing facility placement are considered; and
- reviewing all States' Level II PASRR evaluation forms to ensure that consideration of community placement is included.

Finally, we recommend that CMS revise survey and certification requirements to ensure that State surveyors sample residents with serious mental illness, review PASRR documentation for timely completion, and review care plans for the incorporation of all Level II mental health service recommendations.

AGENCY COMMENTS

CMS concurred with all of our recommendations to ensure that States implement an effective and timely Level I and Level II process. CMS's comments did not warrant any revisions to the results of our review or to our recommendations.



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OBJECTIVE

1. To examine the extent to which Preadmission Screening and Resident Review (PASRR) requirements were addressed for Medicaid nursing facility residents aged 22 to 64 with serious mental illness within selected States and selected nursing facilities.
2. To assess Federal and State oversight of the PASRR process.

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) mandated preadmission screening for individuals suspected of having mental illness and mental retardation or related conditions¹ to ensure that: (1) nursing facilities admit only individuals needing nursing facility care, (2) these individuals' needs for specialized services are determined, and (3) these individuals obtain the services identified through the preadmission screening. The PASRR is the primary mechanism used to meet these objectives.

States may have an incentive to place younger individuals with mental illness in nursing facilities so they can obtain matching Federal Medicaid funds. Medicaid funds do not cover the cost of long term care for individuals aged 21 to 64 with serious mental illness in psychiatric facilities or Institutions for Mental Diseases (IMD).² However, Medicaid will cover the cost of long term care for individuals with mental illness aged 21 to 64 residing in nursing facilities that are not primarily engaged in the care of persons with mental diseases.

However, nursing facilities may be ill equipped to meet the needs of residents with mental illness. According to the 1999 U.S. Surgeon General's Mental Health report, there are "major barriers" that prevent the delivery of appropriate care to these residents.³ In addition, placing individuals with mental illness in nursing facilities may violate the

¹ Related conditions are defined by 42 CFR § 435.1009.

² An IMD is a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in the care of persons with mental diseases. Under sections 1905(a)(16) and 1905(28)(B) of the Social Security Act, inpatients of psychiatric facilities who are over 21 and under 65 years of age are not covered by Medicaid.

³ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, and National Institutes of Mental Health, "Mental Health: A Report of the Surgeon General," p. 374, 1999.

Supreme Court's 1999 decision in Olmstead v. L.C. (Olmstead). Olmstead held that States are required to provide community-based treatment for persons with mental disabilities when the State's treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.⁴

In response to Olmstead, the Secretary of the Department of Health and Human Services issued guidance to States in the form of a letter to State Medicaid Directors. The letter states that "no one should have to live in an institution or a nursing facility if they can live in the community with the right support."⁵ In addition, the President's New Freedom Initiative, begun in 2001, aims to remove barriers to community living for persons with disabilities, including serious mental illness.⁶

Preadmission Screening and Resident Review

The Social Security Act specifies that a nursing facility may not admit an applicant who is mentally ill unless the State Mental Health Authority (SMHA) has determined prior to admission that the individual requires the level of services provided by a nursing facility and, if the individual requires that level of services, whether the individual requires specialized services for mental illness.⁷ As a condition of the Centers for Medicare & Medicaid Services' (CMS) approval of a Medicaid State plan, the State must operate a preadmission screening program that complies with Federal regulations.⁸ The intent of the PASRR is to ensure that individuals aged 22 to 64 with serious mental illness are appropriately screened, thoroughly evaluated, and placed in nursing facilities when appropriate, and that they receive all necessary services.

⁴ Olmstead v. L.C. 527 U.S. 581 (1999), 138 F.3d 893, affirmed in part, vacated in part, and remanded.

⁵ Department of Health and Human Services, Centers for Medicare & Medicaid Services, State Medicaid Director Letter, January 14, 2000.

⁶ Exec. Order No. 13217, 66 Fed. Reg. 33, 1555 (June 18, 2001).

⁷ 42 U.S.C. § 1396r(b)(3)(F)(i).

⁸ 42 CFR § 483.104.

Level I Screens. All individuals who apply to or reside in a Medicaid-certified nursing facility, regardless of payer, are required to receive a Level I PASRR screen to identify possible mental illness.⁹ There are no Federal requirements regarding who or what type of entity must conduct Level I screens.

Federal regulations require that the Level I screen indicate whether an individual has a suspected serious mental illness.¹⁰ For PASRR purposes, the Federal definition of serious mental illness is based on diagnosis, treatment history, and recent functional limitations. Specifically, the individual must have a major mental disorder resulting in functional limitations in major life activities within the past 3 to 6 months, and must have received intensive psychiatric treatment within the past 2 years.¹¹ States can either adopt the Federal definition of serious mental illness or use a broader definition, as long as it complies with the minimum Federal standard. Individuals suspected of having mental illness must also receive a Level II PASRR.¹²

Level II Evaluations and Determinations. The Level II PASRR objectives are to confirm whether the applicant has mental illness, assess the applicant's need for nursing facility services, and determine whether the applicant requires specialized services for the mental illness.¹³ The Level II PASRR must include a comprehensive psychiatric evaluation and a determination.¹⁴

SMHA is ultimately responsible for the determination of whether an individual requires nursing facility services and specialized services.¹⁵ SMHA may verbally convey Level II PASRR determinations to nursing facilities and individuals, but must subsequently confirm the determination in writing.¹⁶ Pursuant to regulation, SMHA must contract with an independent entity to conduct the Level II PASRR evaluation.¹⁷

⁹ 42 CFR §§ 483.106 and 483.128(a).

¹⁰ 42 CFR § 483.128(a).

¹¹ 42 CFR § 483.102(b)(1).

¹² 42 CFR § 483.128(a).

¹³ Ibid.

¹⁴ 42 CFR §§ 483.134(b)(4) and 483.130(a).

¹⁵ 42 CFR § 483.106(e)(1)(i).

¹⁶ 42 CFR § 483.112(c).

¹⁷ 42 CFR §§ 483.106(d)(1) and (e)(3).

Assessment of Individual Needs and Appropriate Placement. Federal regulations require evaluators to assess whether an individual's total needs can be met in a community setting or only on an inpatient basis (e.g., nursing facilities, psychiatric hospital).¹⁸ Level II determination notices must include the placement options that are available given the results of the evaluator's assessment.¹⁹ If an individual's needs can be met in the community, then nursing facility services are not needed.

Determining Services for Nursing Facility Residents With Mental Illness. Level II PASRRs must identify whether specialized services are necessary. For individuals with mental illness, specialized services are the services specified by the State which, when combined with services provided by the nursing facility or other service providers, result in a continuous active treatment program.²⁰ The State must provide or arrange for the provision of specialized services to all nursing facility residents whose mental illness was identified by the Level II PASRR.²¹

When specialized services are not recommended, Level II PASRRs must identify any specific services of lesser intensity that are required to meet the individual's mental health needs.²² The nursing facility must provide mental health services of lesser intensity to all residents who need such services.²³ Medicaid does not separately reimburse these services of lesser intensity; they are considered a condition of participation and must be paid by the nursing facility or under some other arrangement with the State.

Level II Resident Reviews for Significant Changes in Condition. In addition to initial Level II PASRRs, nursing facility residents may receive subsequent Level II PASRR resident reviews during their nursing facility stay. Federal law requires resident reviews when there is a significant change in a resident's physical or mental condition.²⁴

¹⁸ 42 CFR § 483.132.

¹⁹ 42 CFR § 483.130(l)(3).

²⁰ 42 CFR §§ 483.120(a)(1) and 483.136.

²¹ 42 CFR § 483.120(b).

²² 42 CFR § 483.128(i)(4).

²³ 42 CFR § 483.120(c).

²⁴ 42 U.S.C. § 1396r(b)(3)(C)(i)(II).

Federal and State Oversight of PASRR

The State Medicaid agencies and CMS share responsibility for enforcing PASRR requirements. State Medicaid agencies must deny Medicaid payments for nursing facility services provided to individuals who do not have a PASRR determination requiring these services.²⁵

According to the fiscal year 2005 Medicaid Budget and Expenditure Report, based on Form CMS-64, CMS spent approximately \$51.2 million nationally on the administration of the PASRR. These funds represent the Federal share of each States' PASRR program expenditures paid to the State Medicaid agencies.

CMS contracts with State Medicaid agencies to survey and certify nursing facilities to verify compliance with Federal requirements. Each nursing facility is subject to a standard, unannounced survey by a multidisciplinary team of professionals at least every 15 months.²⁶ Surveyors cite noncompliance with Federal regulations using deficiency tags. For these surveys, a sample of resident records is selected for review. If sampled nursing facility residents have mental illness, then surveyors must determine whether nursing facility services and specialized services were needed.²⁷

Previous Studies of PASRR

In the last 5 years, two studies and a nursing facility investigation identified problems with States' implementation of the PASRR.

The 2001 Office of Inspector General (OIG) report, entitled "Younger Nursing Facility Residents with Mental Illness" (OEI-05-99-00700), found a lack of compliance with PASRR requirements and minimal State and Federal oversight of the PASRR.²⁸ Specifically, OIG found that only 47 percent of sampled residents with serious mental illness had evidence of a Level I PASRR screen and only 41 percent of sampled residents had evidence of a Level II PASRR in their case files.²⁹ The report also found that, in 2001, four of five selected States relied on

²⁵ 42 U.S.C. § 1396r(e)(7)(D).

²⁶ 42 U.S.C. § 1396r(g)(2)(A)(iii).

²⁷ The Centers for Medicare & Medicaid Services' State Operations Manual, Appendix PP, § 483.20(m).

²⁸ Office of Inspector General, "Younger Nursing Facility Residents With Mental Illness: Preadmission Screening and Resident Review (PASRR) Implementation and Oversight" (OEI-05-99-00700), 2001.

²⁹ Ibid.

the State nursing facility survey agency to monitor the PASRR process. However, State surveyors who were interviewed reported that monitoring the PASRR process was not their responsibility.

In the 2001 report, OIG recommended that CMS improve Federal monitoring and oversight of the PASRR, improve States' ability to determine appropriate facility placement, and improve access to mental health treatment. In response to the 2001 OIG report, CMS created a PASRR training video for surveyors. CMS also developed both a review tool for its regional office staff to assess States' PASRR programs and a State self-assessment tool. The review tools have been neither finalized nor distributed. CMS PASRR staff reported that they provide PASRR-related guidance when States request technical assistance. No additional OIG recommendations have been addressed to date.

A 2006 study conducted by the Substance Abuse and Mental Health Services Administration also raised serious concerns regarding States' ability to meet the PASRR objectives.³⁰ In addition, a 2003 Department of Justice investigation into one of the largest publicly operated nursing facilities found that the facility failed to comply with PASRR requirements.³¹

Concurrent Office of Inspector General Evaluation

Concurrent with this evaluation, OIG conducted an evaluation on "Preadmission Screening and Resident Review for Younger Nursing Facility Residents With Mental Retardation" (OEI-07-05-00230). These studies were produced separately because in many States the mental health service delivery system is distinct from the mental retardation service delivery system.

³⁰ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, "PASRR Screening for Mental Illness in Nursing Facility Applicants and Residents," 2006.

³¹ Department of Justice, "Investigation of Laguna Honda Hospital and Rehabilitation Center," 2003.

METHODOLOGY

We focused this review on the PASRR process in a purposive sample of five States (California, Colorado, Georgia, Illinois, and New York). We purposively selected these States based on the high proportion of Medicaid nursing facility residents aged 22 to 64 with possible serious mental illness identified by the calendar year (CY) 2004 Minimum Data Set (MDS). In addition, we considered geographic location, States' definition of specialized services, and availability of alternative placements. Below we provide a basic description of our methodology. See Appendix A for a more detailed description.

In each of the five selected States, we collected data from six sources: (1) case file reviews of Medicaid nursing facility residents aged 22 to 64 with serious mental illness; (2) structured interviews with agency officials from the selected States; (3) structured interviews with administrators and staff from selected nursing facilities; (4) structured interviews with CMS staff; (5) review of PASRR policy documents, Level I PASRR screens, and Level II PASRR evaluation forms from the selected States; and (6) review of data on the placement recommendations for all 2004 Level II PASRR evaluations.

Case File Reviews of Nursing Facility Residents

Within each selected State, we used CY 2004 MDS data to select 4 nursing facilities with a high prevalence of residents aged 22 to 64 with possible serious mental illness, for a total of 20 nursing facilities.³²

Within each of the nursing facilities, we randomly selected 10 current residents who met the following criteria:³³

- o Medicaid as the payer source;
- o aged between 22 and 64 as of the nursing facility site visit date;
- o diagnosis of mental illness which is likely to be correlated to the PASRR definition of serious mental illness as defined in Federal regulation (see Appendix A, Table 4 for specific International Classification of Diseases, 9th Revision);

³² The MDS does not contain data that identify nursing facility residents with serious mental illness. However, the MDS allowed us to use proxy variables for serious mental illness, including history of mental illness, categories of mental illness, and history of residence in a psychiatric setting. In addition, the MDS provided necessary demographic information including age and Medicaid reimbursement.

³³ In 2 facilities, 11 case files were reviewed.

- o admitted on or after January 31, 2001 (this allowed us to focus on the PASRR compliance after the 2001 OIG report “Younger Nursing Facility Residents With Mental Illness: Preadmission Screening and Resident Review Implementation and Oversight” was published); and
- o do not have a diagnosis of mental retardation, dementia, or Alzheimer’s disease.

If 10 or fewer residents met our criteria, we selected all the residents who met our criteria.

We reviewed a total of 186 case files. The number of case files reviewed per State is outlined in Table 1.

We reviewed each resident’s case file to determine the percentage of sampled residents who had any documentation, herein referred to as evidence, of a Level I screen and a Level II PASRR in their case files. We

were unable to conduct separate analysis on Level II PASRR evaluations and determinations due to the impossibility of distinguishing between the evaluation and determination documents in two selected States. Therefore, we refer to evidence of either a Level II evaluation or determination as a “Level II PASRR” throughout our findings.

We asked nursing facility administrators to produce the PASRR documentation when it was not maintained in the resident’s file. Nursing facilities must retain a Level I screen and, when appropriate, a Level II PASRR.³⁴ We also analyzed the PASRR documentation for compliance with regulations related to timing and content.

We also examined the extent to which mental health service recommendations were included in Level II PASRRs.³⁵ We then compared the mental health service recommendations to residents’

Table 1: Number of Nursing Facility Case Files Reviewed in Each State	
State	Number of Case Files Reviewed
1	40
2	39
3	42
4	31
5	34
Total	186

Source: OIG analysis of 186 case files, 2006.

³⁴ 42 CFR §§ 483.130(j) and 483.75(4)(iv).

³⁵ 42 CFR §§ 483.120(b) and (c).

charts and other documentation as a measure of whether recommended services were provided. We allowed up to 6 months after the Level II PASRR for the nursing facility to incorporate the recommended service into the care plan.

We conducted a separate analysis of Level II PASRR resident reviews. See Appendix B for our separate compliance analysis of Level II PASRR resident reviews.

Structured Interviews and Documentation Review

In each of the five selected States, we interviewed representatives from the State Medicaid agency, SMHA, the State's long term care survey and certification agency, and one SMHA-contracted mental health evaluator responsible for conducting Level II PASRR evaluations. Additionally, we collected all five States' PASRR policy documents, Level I screens, and Level II PASRR evaluation forms.

At each of the 20 sampled nursing facilities, we interviewed the nursing facility administrator and other nursing facility staff responsible for the PASRR process and the provision of mental health services.

We interviewed CMS PASRR and Survey and Certification Group staff from headquarters and CMS regional office PASRR contacts representing the five selected States. We also collected documentation of CMS oversight activities, including draft guidance.

Review of Level II PASRR Evaluations

We sought to assess whether the five selected States considered placement types other than nursing facility placement as part of the Level II PASRR evaluation.³⁶ To accomplish this, we reviewed Level II PASRR evaluation forms and placement recommendations.

We reviewed 15 different Level II PASRR evaluation forms from the 5 selected States to determine whether they met all Federal content requirements.³⁷ To systematically review the placement recommendations made in Level II PASRR evaluations, we reviewed data on the total number of CY 2004 Level II PASRR evaluations in the

³⁶ 42 CFR § 483.132(a) and *Olmstead v. L.C.* (98-536) 527 U.S. 581 (1999), 138 F.3d 893, affirmed in part, vacated in part, and remanded.

³⁷ In CY 2004, three of the five selected States used one State-specific Level II PASRR evaluation form and one State modified its form midyear, for a total of two forms. The fifth State used a variety of forms, depending on the contracted mental health evaluator. For this State, we randomly selected 10 forms for review.

I N T R O D U C T I O N

five selected States and the placement recommendations made in these evaluations.

Scope

Our review of the PASRR is limited to Medicaid beneficiaries aged 22 to 64 with serious mental illness residing in Medicaid-certified nursing facilities in five selected States.³⁸ We selected this population because there are financial incentives under Medicaid for States to place beneficiaries in nursing facilities, as opposed to IMDs.

We purposively selected five States and four nursing facilities within each of these States. As such, we do not project our results to the population of these five States, nursing facilities, or nursing facility residents. In addition, we do not compare the results of this report to those found in the 2001 OIG report “Younger Nursing Facility Residents With Mental Illness: Preadmission Screening and Resident Review (PASRR) Implementation and Oversight” (OEI-05-99-00700).

As part of this review, we evaluated whether Level II PASRR service recommendations were incorporated into treatment plans. We did not verify whether these services were provided, nor conduct a medical review to determine the necessity of these services.

Standards

This study was conducted in accordance with “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

³⁸ Section 1905(h)(1)(C) of the Social Security Act states that after a beneficiary’s 21st birthday, Medicaid no longer covers inpatient psychiatric care, unless the beneficiary is under psychiatric care immediately preceding his or her 21st birthday. If so, Medicaid will stop covering inpatient psychiatric services no later than his/her 22nd birthday.

► FINDINGS

Almost all sampled residents with serious mental illness received a Level I screen that met all Federal requirements

Ninety percent of sampled residents received a Level I screen

In our 5-State review, 90 percent (168 of 186) of sampled residents

had a Level I screen in their case file. All individuals who apply to a Medicaid nursing facility are required to receive a Level I screen to identify suspected mental illness prior to nursing facility admission.³⁹

Eighty-two percent of Level I screens we reviewed met both timing and content requirements

Overall, 82 percent (138 of 168) of Level I screens met both timing and content requirements. Eighty-eight percent (148 of 168) of Level I screens were conducted prior to nursing facility admission, and therefore met the timing requirement. The remaining 20 Level I screens were, on average, 225 days past the date of admission.

Ninety-four percent (157 of 168) of Level I screens contained the required content to identify suspected mental illness. Content requirements for Level I screens are dictated by the definition of serious mental illness used by the State. These screens must contain sufficient content to determine whether an applicant has a suspected serious mental illness.

Two-thirds of sampled residents with serious mental illness had evidence of a Level II PASRR, but only 5 percent met all Federal requirements

Sixty-seven percent of sampled residents had evidence of a Level II PASRR

Nursing facility applicants suspected of having mental

illness, according to their Level I screen, must receive a Level II PASRR prior to admission to ensure appropriate placement and treatment.⁴⁰

Overall, we found that 67 percent (124 of 186) of sampled nursing facility residents had evidence of a Level II PASRR in their case files.

In three of the selected States, evidence of a Level II PASRR should have been present for 100 percent of sampled residents. In these 3 States, we found evidence of a Level II PASRR for 64 percent

³⁹ 42 CFR §§ 483.102(a) and 483.128(a).

⁴⁰ 42 CFR § 483.128(a).

(72 of 112) of sampled residents. These three States consider any individual with a mental illness diagnosis as having a “serious mental illness” for the purposes of the PASRR. Thus, in these States, individuals with mental illness diagnoses trigger a referral for a Level II PASRR, and all of the sampled residents in the three States had a mental illness diagnosis.

In the remaining 2 States, 37 of the 45 residents (82 percent) who met the criteria to necessitate a Level II PASRR had evidence in their case file that they received one. These States use the more restrictive, Federal definition of serious mental illness. In these States, only nursing facility applicants with a serious mental illness diagnosis, treatment history, and recent functional limitations are required to receive a Level II PASRR.⁴¹

While only 5 percent of Level II PASRRs reviewed met timing and content requirements, most contained required information regarding placement and recommended services

Like Level I screens, Level II PASRRs must be completed prior to nursing facility admission.⁴² Federal requirements delineate specific content for Level II PASRRs that must be used in determining appropriate placement and treatment for evaluated individuals.⁴³ Overall, only 5 percent (6 of 121) of the Level II PASRRs reviewed met both timing and content requirements.⁴⁴

Sixty percent of Level II PASRRs were conducted prior to nursing facility admission. Sixty percent (73 of 121) of all Level II PASRRs reviewed were conducted prior to nursing facility admission. The 33 Level II PASRRs conducted after admission were, on average, 106 days late.⁴⁵ For sampled residents in 1 State, only 3 percent (1 of 32) of Level II

⁴¹ Additionally, in these 2 States, we found 15 Level II PASRRs in case files in which either the Level I screen was missing or the Level I screen indicated that the Level II PASRR was not required.

⁴² 42 U.S.C. § 1396r(b)(3)(F).

⁴³ 42 CFR § 483.132(a).

⁴⁴ We found that 67 percent (124 of 186) of sampled residents had evidence of Level II PASRRs. The 124 resident files with a Level II PASRR included 3 files categorized as “terminated,” which have separate content requirements in the Federal regulation. See Appendix A for more information on these residents’ case files. The timing and content analysis presented here was conducted on the 121 Level II PASRRs found in resident case files that were not categorized as terminated.

⁴⁵ There were 15 Level II PASRRs for which we were unable to determine the time of completion.

F I N D I N G S

PASRRs reviewed were completed prior to admission. The State Medicaid agency, SMHA officials, and nursing facility staff from sampled nursing facilities in this State indicated that Level II PASRR evaluators often take several months to conduct Level II PASRRs, and the State's Medicaid agency authorizes 4-month stays for nursing facility residents without Level II PASRRs.

Seven percent of Level II PASRRs met all content requirements. While only 7 percent (9 of 121) of the Level II PASRRs we reviewed met all content requirements, most met requirements related to placement and recommended services. Over 90 percent of Level II PASRRs contained the required indications of placement option and need for nursing facility services. In addition, 85 percent (103 of 121) of Level II PASRRs contained mental health service recommendations and 72 percent (87 of 121) indicated whether specialized services were necessary. See Table 2 for details on Level II PASRR compliance with specific content requirements.

At the same time, most Level II PASRRs were missing information that could help nursing facilities provide appropriate mental health services. The evaluator's basis for the conclusions regarding treatment and placement was present in less than half of case files. In addition, a summary of the beneficiary's medical and social history was included in only 28 percent (34 of 121) of case files.

Additionally, many of the Level II PASRRs we reviewed were missing technical information, including the evaluator's name and professional title, and a statement of the individual's rights.

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Table 2: Level II PASRR Content Compliance	
Required Level II PASRR Content	Level II PASRR Compliance
Indicates placement option	94% (114)
Indicates need for nursing facility services	93% (113)
Provides mental health service recommendations	85% (103)
Indicates need for specialized services	72% (87)
Provides evaluator’s name and professional title	53% (64)
Provides basis for Level II placement and service conclusions	46% (56)
Provides summary of medical and social history	28% (34)
Identifies Individual’s rights	26% (32)

Source: OIG review of 121 resident case files, 2006.

Eighty-five percent of sampled residents who received a Level II PASRR had mental health service recommendations. Thirty-three percent had all recommended services incorporated into their care plans

All Level II PASRRs that conclude that an applicant with serious mental illness needs nursing facility services must identify the specific mental health services that meet the individual’s needs.⁴⁶

Eighty-five percent of sampled residents who received a Level II PASRR had mental health service recommendations

Of those sampled residents who received a Level II PASRR, 85 percent (103 of 121) received 1 or more mental health service recommendations for a specialized service, a service of lesser intensity, or both. The most frequently recommended services were medication management, case management, family therapy, and monitoring.

⁴⁶ 42 CFR §§ 483.128(i)(3)(4) and (5).

Thirty-three percent of sampled residents who received a Level II PASRR with mental health service recommendations had these services incorporated into their care plans

Thirty-three percent (34 of 103) of sampled residents who received an initial Level II PASRR with mental health service recommendations had all recommended services incorporated into their care plans.

Seventeen of twenty sampled nursing facilities reported that it is their policy to incorporate Level II PASRR mental health service recommendations into residents’ care plans. The other three nursing facilities reported that they do not receive service recommendations for their residents. However, four of the five Level II PASRRs we found in these nursing facilities had mental health service recommendations.

Consideration of community-based settings may not always occur as part of the Level II PASRR process

Federal regulations require that Level II PASRR evaluators assess whether the individual’s total needs are such that they can be

met in an appropriate alternative placement to nursing facilities, including community-based settings, inpatient hospitals, and IMDs.⁴⁷ Further, the *Olmstead* decision holds that services for persons with disabilities should be provided consistent with the State’s determination regarding the most appropriate setting. This requirement means that States have a responsibility to place individuals with mental illness in community settings rather than institutions when deemed appropriate.⁴⁸

Only two out of five selected States’ Level II PASRR evaluation forms include the consideration of community placement

Only two of the five selected States’ Level II PASRR evaluation forms prompt evaluators to consider the appropriateness of community-based settings for nursing facility applicants with mental illness. Specifically, one State’s form prompts evaluators to assess whether the applicant could care for himself or herself and stay out of danger if placed in the community. The other State’s form instructs evaluators to consider the level and availability of support that would be needed for the applicant

⁴⁷ 42 CFR § 483.132(a).

⁴⁸ *Olmstead v. L.C.* (98-536) 527 U.S. 581 (1999), 138 F.3d 893, affirmed in part, vacated in part, and remanded.

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to remain in the community. In addition, Level II PASRR evaluators in only these States report routinely considering the appropriateness of community placements as part of the Level II PASRR.

In the three other States, a prompt to consider community placement is not routinely included on the evaluation form and may occur only at the discretion of the Level II PASRR evaluator. In two States, the Level II evaluation forms do not prompt for the consideration of community placements at all. In one of these States, this is due to the fact that Level I screeners determine whether an individual should be placed in the community. Federal law requires this determination occur during the Level II PASRR process to ensure that qualified mental health evaluators are making placement decisions.

The third State allows Level II PASRR evaluators to use a variety of Level II PASRR evaluation forms, most of which prompt the evaluator to consider available community options, but some of which do not. Further, the Level II PASRR evaluator we interviewed in this State reported that he does not consider community-based placements.

Respondents from all five States reported concern about appropriate placement of individuals with serious mental illness aged 22 to 64

Some respondents reported concern that individuals aged 22 to 64 with serious mental illness are inappropriately placed in nursing facilities. Three Level II PASRR evaluators, from three separate States, reported having this concern. In addition, 3 State surveyors, and staff in 9 of 20 sampled nursing facilities reported that the PASRR is ineffective in ensuring the appropriate placement of individuals with mental illness in nursing facilities.

Some respondents were also concerned that there are not adequate numbers of alternative community-based placements for younger individuals with serious mental illness, limiting Level II PASRR evaluators' ability to recommend community-based placements. Level II evaluators from three States and three of five States' Medicaid agencies and SMHAs reported having this concern.

Two percent of 2004 Level II PASRRs for individuals aged 22 to 64 with serious mental illness recommended community-based placement

Because our case file review focused exclusively on nursing facility residents, and not on all individuals evaluated under the PASRR, we also reviewed data on all Level II PASRRs conducted in CY 2004 for individuals with suspected mental illness aged 22 to 64 in the five selected States.

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Eighty-five percent (6,278 of 7,397) of Level II PASRRs for individuals aged 22 to 64 resulted in nursing facility placement recommendations, 4 percent (307 of 7,397) resulted in more restrictive inpatient placement recommendations, and 2 percent (155 of 7,397) resulted in less restrictive community placement recommendations. See Table 3 for additional placement recommendation information.

Table 3: 2004 PASRR Placement Recommendations for Individuals Aged 22 to 64 With a Serious Mental Illness						
State	2004 Level II for Ages 22-64	States' Level II Evaluation Forms Include Consideration of Community Placement	Nursing Facility Level of Care	More Restrictive Than Nursing Facility	Less Restrictive Than Nursing Facility	Other, Cancelled, or Don't Know
1	2,375	Yes	95%	0%	5%	0%
2	629	Yes	91%	2%	5%	2%
3	625	No	85%	8%	0.5%	6.5%
4	3,102	No	76%	6%	0%	18%
5	666	No	87%	8%	0%	5%
Overall Total	7,397		(6,278) 85%	(307) 4%	(155) 2%	(657) 9%

Source: OIG analysis of five selected States' 2004 Level II PASRR placement recommendations, 2006.

While we did not determine a causal relationship, we found that the two selected States that prompt for the consideration of community placement on their Level II evaluation forms had higher levels of community placements. In the 2 selected States where Level II PASRR evaluation forms prompt for the consideration of community placement, 5 percent (152 of 3,004) of Level II PASRRs recommended less restrictive placement than nursing facilities for individuals aged 22 to 64 with mental illness.⁴⁹ In contrast, in the 3 States with forms that do not prompt the Level II evaluator to consider community placements, less than 1 percent (3 of 4,393) of Level II PASRRs recommended a less restrictive setting.

⁴⁹ Since we did not conduct a clinical review of these Level II PASRRs, we do not know what placement type is most appropriate.

CMS conducts limited oversight; all five selected States monitor aspects of the PASRR process

CMS has a role in assisting and guiding State oversight efforts. Pursuant to Federal regulation, State Medicaid

agencies must “retain ultimate control and responsibility” over the PASRR process.⁵⁰

CMS provides limited oversight and guidance to States

Seven of ten CMS regional PASRR contacts report providing limited guidance and oversight to States regarding their PASRR process. In the past 5 years, only two CMS regions report having conducted State PASRR reviews. Further, only two CMS regions report having ever provided PASRR-related training to States or nursing facilities.

Four of five selected States reported receiving limited Federal guidance. Three of these States reported concern that PASRR regulations lack clarity, creating confusion about how best to comply with Federal standards. These three States reported unsuccessfully consulting with CMS to better understand Federal PASRR regulations.

All five selected States link Medicaid payment to completion of the Level I screen

To ensure that nursing facility residents receive Level I screens, all five selected State Medicaid agencies report that Medicaid payment to nursing facilities is linked to the completion of the Level I screen. In these five States, nursing facilities will not be reimbursed for a Medicaid-eligible resident unless he or she received a Level I screen and the Medicaid agency has a copy of the document.

Three of five selected States report that they systematically monitor Level II PASRRs

Three of five selected State Medicaid agencies report that they maintain control over Level II PASRR outcomes by mandating that SMHAs review the Level II PASRRs conducted by the contracted mental health evaluator. These reviews seek to ensure that the Level II PASRRs contain appropriate placement decisions and recommended services. In two of these three States, the State Medicaid agencies mandate that SMHAs review all Level II PASRRs. In the third selected State, SMHA is required to review 5 percent of all Level II PASRRs recommending

⁵⁰ 42 CFR § 483.106(e).

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nursing facility placement, and all Level II PASRRs recommending inpatient hospitalization.

Two State Medicaid agencies report that they do not have processes for systematically reviewing Level II PASRRs. In fact, in one State neither the Medicaid agency nor SMHA even receives the Level II PASRRs for review. In the other selected State, SMHA is required by the State Medicaid agency to review only Level II PASRRs with contested outcomes. None of the five selected States link Medicaid payment to the completion of the Level II PASRR.

Three of five selected States report that they monitor the provision of Level II PASRR-recommended services

Three selected States report that, in addition to the annual nursing facility survey, they directly monitor whether Level II PASRR mental health service recommendations are being delivered. Two of these three States conduct this oversight as well as requiring that SMHAs systematically review Level II PASRRs, as described above.

One State's Medicaid agency expanded its annual nursing facility survey to include a review of mental health services and comprehensive assessments, including Level II PASRRs, for all residents with mental illness. The second State's Medicaid agency conducts a monthly review of sampled nursing facility residents to assess whether they are receiving the services recommended in their Level II PASRR as required. This State's Medicaid agency has future plans to recoup Medicaid funds for the days residents did not receive recommended services.

The third selected State's SMHA annually reviews a sample of nursing facility residents to assess whether Level II PASRR service recommendations were provided.

The survey and certification process does not provide systematic oversight of the PASRR

CMS contracts with States to survey nursing facilities, no less than every 15 months, to verify compliance with Federal nursing facility requirements.⁵¹ If surveyors identify noncompliance with Federal PASRR regulations, a deficiency tag, F285, should be cited. In CY 2004, F285 was cited 101 times in approximately 16,000 nursing facilities nationwide.

⁵¹ 42 U.S.C. § 1396r(g)(2)(A)(iii)(I).

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As part of the survey process, CMS directs State surveyors to review PASRR documents when residents with mental illness randomly fall into their survey sample.⁵² When a resident with mental illness was randomly included in an annual survey, four of the five selected State surveyors reported reviewing those files for evidence of Level I screens and Level II PASRRs and, if recommended, services were incorporated into the nursing facilities' care plans. However, according to CMS survey and certification staff we interviewed, surveyors are not required to include a resident with mental illness in their survey sample, even when there is a high prevalence of individuals with mental illness in a nursing facility.

As part of their offsite survey preparation, surveyors are instructed to review the PASRR documentation for nursing facility residents with mental illness to consider purposefully including a resident with mental illness in their sample.⁵³ However, surveyors can only review the PASRR documentation prior to the survey if the State makes these documents available.⁵⁴ None of the officials we interviewed from the five selected State Medicaid agencies reported providing PASRR documents to surveyors prior to the survey and none of the five State surveyors we interviewed reported requesting or reviewing PASRR documents prior to a nursing facility survey.

⁵² The Centers for Medicare & Medicaid Services' State Operations Manual, Appendix PP, § 483.20(m).

⁵³ The Centers for Medicare & Medicaid Services' State Operations Manual, Appendix P, II.B.1 (Task 1)(B)(7).

⁵⁴ Ibid.



R E C O M M E N D A T I O N S

The PASRR process was created to ensure that individuals with mental illness are not inappropriately placed in Medicaid nursing facilities. The PASRR is the primary mechanism to ensure that individuals aged 22 to 64 with serious mental illness are screened, evaluated, and placed in nursing facilities when appropriate, and receive identified needed services. As such, it is essential that all State PASRR systems work effectively.

This examination of the PASRR process found that not all residents with serious mental illness received a Level I screen and/or a Level II PASRR. Additionally, most Level II PASRRs did not comply with all Federal requirements. We also found that while Level II PASRRs often included recommendations for mental health services, only one-third of case files had all services incorporated into residents' care plans. Finally, the Level II PASRR process does not appear to be used as a tool to systematically consider alternative placements to nursing facilities. Two percent of all CY 2004 Level II PASRRs for individuals aged 22 to 64 with serious mental illness in the five selected States resulted in community-based placement recommendation.

We based our findings on a purposive sample and have not made any statistical projections. However, the findings from the sample identify deficiencies pertaining to the PASRR process that should be addressed to ensure that individuals with serious mental illness are appropriately placed and receive necessary mental health services. We therefore recommend the following to CMS:

Hold State Medicaid agencies accountable for ensuring compliance with Federal requirements. Specifically, we recommend that:

- every nursing facility applicant receives a Level I screen prior to nursing facility admission,
- all individuals with suspected serious mental illness receive a complete Level II PASRR prior to nursing facility admission and that all Level II PASRR documentation is shared with the admitting nursing facility, and
- the admitting nursing facility incorporate all recommended services identified on the Level II PASRR into residents' care plans and provide for or arrange all of these services.

To address the above recommendations, we have several specific suggestions for CMS to consider. First, CMS could require that State Medicaid agencies provide data to CMS regarding the number of

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completed Level I screens, the number of expected and completed Level II PASRRs, and nursing facility confirmation of receipts of the PASRR documentation. Alternatively, as part of CMS's current efforts to modify the MDS, CMS could consider adding a data element to indicate whether a Level I screen and Level II PASRR have been completed. Finally, we suggest that CMS distribute both its draft State self-assessment form and its draft regional office assessment form as tools to be used in the regular collection of information about each State's PASRR processes.

Hold States accountable for considering community placements during the Level II PASRR process by:

- o working with State Medicaid agencies to develop tools, such as protocols, forms, and guidance to evaluators, to ensure that community-based alternatives to nursing facility placement are considered; and
- o reviewing all States' Level II PASRR evaluation forms to ensure that consideration of community placement is included.

Revise survey and certification requirements to ensure that State surveyors:

- o sample residents with serious mental illness,
- o review all PASRR documentation for timely completion, and
- o review care plans for the incorporation of all Level II PASRR mental health service recommendations.

AGENCY COMMENTS

CMS concurred with all of our recommendations. CMS intends to remind States of their obligation to implement an effective and timely Level I and Level II process, clarifying for States all of the Level II elements required by Federal regulation. In addition, CMS intends to review State claims, if necessary, to ensure that States recoup Federal Financial Participation from nursing facilities for any days claimed prior to the completion of all PASRR documentation. CMS intends to review the forms and tools used by each State for the PASRR Level II evaluation and determination to assess whether they include consideration of community placement. To address our final recommendation regarding revising survey and certification requirements to ensure oversight of PASRR, CMS stated it will ensure that a resident requiring a Level II PASRR is included in the resident sample during a nursing facility survey.

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CMS's comments did not warrant any revisions to the results of our review or to our recommendations. For the full text of CMS's comments, see Appendix C.

DETAILED METHODOLOGY

State Selection

Our purposive sample did not include the same States selected in the Office of Inspector General’s 2001 report, with the exception of California. We chose different States than those involved in the concurrent OIG evaluation “Preadmission Screening and Resident Review for Younger Nursing Facility Residents With Mental Retardation” (OEI-07-05-00230) to reduce the burden on any one State during its participation in this review.

Case File Reviews

Our criteria for sample inclusion in the case file review included the following diagnosis codes:

ICD-9 (Diagnosis) Codes	Description of Mental Disorder Category
293	Transient mental disorders due to conditions classified elsewhere; includes transient organic mental disorders not associated with drugs or alcohol
294 (some dementia exceptions)	Persistent mental disorders due to conditions classified elsewhere; includes organic psychotic brain syndromes (chronic) not elsewhere classified
295	Schizophrenic psychoses
296	Episodic mood disorders; includes episodic affective disorders; does not include 296.2: Major Depressive Disorder, single episode
297	Delusional disorders; includes paranoid disorders
298	Other nonorganic psychoses; includes psychotic conditions due to or provoked by emotional stress or environmental factors
299	Psychoses with origin specific to childhood
300	Anxiety, dissociative, and somatoform disorders
301	Personality disorders; includes character neurosis
307.1	Special symptoms or syndromes not elsewhere classified: Anorexia nervosa
307.51	Special symptoms or syndromes not elsewhere classified: Bulimia nervosa
312	Disturbance of conduct not elsewhere classified

Source: International Classification of Diseases, 9th Revision, List of Three Digit Categories, FY 2005.

Analysis of Level I screen and Level II Preadmission Screening and Resident Reviews

To assess whether Level I screens and Level II Preadmission Screening and Resident Reviews (PASRR) were in compliance with timing requirements, we determined whether the Level I screen and Level II PASRR were completed prior to or on the resident's current nursing facility admission date.

To assess whether Level I screens contained required content, we assessed whether they indicated that the individual had a suspected mental illness. Pursuant to Federal regulation (42 CFR § 483.102(b)(1) and 42 CFR § 483.102(b)(iii)(B)), a State may use the Federal definition of serious mental illness or a broader definition of serious mental illness. As such, each Level I screen was assessed using its State's definition of serious mental illness.

The Level II PASRR process comprises a mental health and physical evaluation, notice of completion of the evaluation, determination letter, and summary of findings. If we found any of these documents, we considered this evidence of a Level II PASRR. We reviewed the Level II PASRRs to determine whether they included all required components as detailed in Federal regulations (42 CFR § 483.128(i) and 42 CFR § 483.130(l)).

Specifically, we reviewed each resident's Level II PASRR to see if it included: (1) recommended placement option, (2) need for nursing facility services, (3) need for specialized services, (4) rights of the individual, (5) name and professional title of the evaluator, (6) recommendations for services of lesser intensity and/or specialized services, (7) summary of the resident's social and medical history, and (8) basis for the evaluator's conclusions. If any required item was missing, we determined that the Level II PASRR was not in compliance with Federal requirements.

We also reviewed all aspects of selected States' Level II PASRR evaluation and determination form templates to determine whether they contained the categories needed to capture the required content.

Level II PASRRs that the State Mental Health Authority (SMHA) determined did not need to be completed due to a regulatory exemption were categorized as terminated. In our case file review, we found three

terminated Level II PASRRs.⁵⁵ Terminated Level II PASRRs have limited content requirements compared to completed Level II PASRRs. Terminated Level II PASRRs were assessed under these limited content requirements as described in Federal regulation (42 CFR § 483.128(m)). All three terminated Level II PASRRs met all content requirements. We did not include the three terminated Level II PASRRs in our overall Level II PASRR compliance review.

We also reviewed residents' case files to determine the extent to which Level II PASRRs' specialized mental health service recommendations were documented by the nursing facility as either provided or arranged by the State, and the extent to which recommended "services of lesser intensity" were incorporated into the resident's care plan by the nursing facility as required.⁵⁶

⁵⁵ The three Level II PASRRs were terminated because the evaluator determined that the individuals had dementia.

⁵⁶ 42 CFR § 483.128(i).

LEVEL II PASRR RESIDENT REVIEW

The Omnibus Budget Reconciliation Act of 1987 required annual Level II PASRR resident reviews (readministration of the Level II PASRR) for nursing facility residents with serious mental illness. The 1996 Nursing Home Facility Resident Act, Public Law 104-315, repealed the annual review requirement and instead required a Level II PASRR resident review when there is a significant change in a resident’s physical or mental condition.

Each SMHA must establish a notification procedure for nursing facilities to promptly notify SMHA when a resident’s mental or physical status has significantly changed.⁵⁷ SMHA is then required to conduct a Level II PASRR resident review or reassessment if this change has a “bearing on the active treatment needs” of the resident.⁵⁸

A Level II PASRR resident review enables SMHA to determine: (1) whether the nursing facility remains the most appropriate placement option, (2) any new services a resident may need, and (3) what services should be provided by the nursing facility or provided or arranged by the State.

Five percent of case files had evidence of a Level II PASRR resident review

We could not determine how many residents experienced a significant change warranting a Level II PASRR resident review. In our case file review, 5 percent of sampled residents had evidence of a Level II PASRR resident review, for a total of nine Level II PASRR resident reviews. Without a Level II PASRR resident review, residents are limited to their initial Level II PASRR despite any potential change in their mental health status that might necessitate that they be placed in a more appropriate setting or receive needed mental health treatment.

We found that while none of the nine Level II PASRR resident reviews met all content requirements, most included key information such as needed mental health services and recommended placement option.

⁵⁷ The Nursing Home Facility Resident Reform Act, Public Law No. 104-315 § 2 (1996).

⁵⁸ Ibid.

Four States have established a notification process for triggering Level II PASRR resident reviews, but only half of the selected nursing facilities follow notification protocol

To ensure that nursing facility residents with serious mental illness who experience a significant change in physical or mental condition receive appropriate services in an appropriate placement, four of the five selected States have established a process for nursing facilities to report a resident's significant change in status. This notification triggers a review by SMHA to determine whether a resident needs a Level II PASRR resident review to reassess his or her treatment and placement needs. However, despite these established notification procedures, only 8 of 16 nursing facilities in these States reported that their procedure is to directly notify the State about a resident's significant change.

One selected State does not have a process for nursing facilities to report a resident's significant change in status and none of the four nursing facilities in that State reported that there would ever be an instance in which a resident would receive another Level II PASRR.

AGENCY COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

DEC 13 2006

Administrator
Washington, DC 20201

TO: Daniel R. Levinson
Inspector General

FROM: Leslie V. Norwalk, Esq.
Acting Administrator

SUBJECT: The Office of Inspector General's (OIG) Draft Report: "Preadmission Screening and Resident Review for Younger Nursing Facility Residents with Serious Mental Illness," (OEI-05-05-00220)

We appreciate the opportunity to provide comments on the OIG draft report, "Preadmission Screening and Resident Review for Younger Nursing Facility Residents with Serious Mental Illness." Our comments are provided below. Since 1987, section 1919(c)(7) of the Social Security Act has required that Medicaid certified nursing facilities neither admit, nor retain any individual with serious mental illness or mental retardation unless a thorough evaluation indicates that such placement is appropriate and that adequate services will be provided. The OIG report found that this important protection for vulnerable individuals is not being adequately implemented in the studied States. The report also found that Federal and State oversight should be improved.

In June of 2005, the Centers for Medicare and Medicaid Services (CMS) convened an expert panel of many PASRR stakeholders, and set a course for more proactive Federal oversight of the program. Since that time we have provided technical guidance through presented papers and discussions with relevant associations. In addition, we have developed and released a draft comprehensive compliance assessment for States, worked with professionals in the field in support of an association for PASRR professionals, initiated monthly Regional/Central Office PASRR conference calls, verified contact with each State PASRR coordinator in preparation for periodic technical assistance bulletins, and taken other actions. We welcome the specific recommendations from OIG to strengthen our effort to ensure that individuals with serious mental illness are served in the most appropriate manner.

OIG Recommendation

Hold State Medicaid agencies accountable for ensuring compliance with Federal requirements.

- *Every nursing facility applicant receives a Level I screen prior to nursing facility admission.*
- *All individuals with suspected serious mental illness receive a complete Level II PASRR prior to nursing facility admission and that all Level II PASRR documentation is shared with the admitting nursing facility.*

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- *The admitting nursing facility incorporate all recommended services identified on the Level II PASRR into residents' care plans and provides for or arranges all of these services.*
- *The CMS could require that State Medicaid Agencies provide data to CMS.*
- *The CMS distribute both the draft State self-assessment form and the draft regional office assessment form.*

CMS Response

The Centers for Medicare and Medicaid Services' (CMS) Disabled and Elderly Group concurs with the recommendations, with some clarifications. The State Medicaid agencies are responsible for the State PASRR program, and should be accountable to CMS for compliance. Over the years, CMS has emphasized to States that every nursing facility applicant must receive a Level I screen and that all individuals found to have mental illness or mental retardation must receive a Level II evaluation and determination prior to nursing facility admission.

Based on the findings of the OIG review, CMS intends to remind States of their obligation to implement an effective and timely Level I & II process. We also intend to provide further guidance and, if necessary, review State claims to ensure that States recoup Federal financial participation from nursing facilities for any days claimed prior to the completion of all proper PASRR documentation, including all required Level II PASRR documentation. We also intend to clarify for States that we interpret "all Level II PASRR documentation" (as we indicated in our response to the 2001 OIG report entitled, "Younger Nursing Facility Residents with Mental Illness" OEI-05-99-00700) to mean the Level II evaluation report (or categorical determination report), with the elements required by Federal regulations at 42 CFR section 483.128. This guidance would also be consistent with the OIG's use in the present study of the criteria in Federal regulations at 42 CFR section 483.128 to assess whether Level II PASRR reports included the required elements.

The CMS expects State Medicaid agencies to monitor the degree to which recommended services are incorporated into care plans, and the degree to which recommended services are delivered, as key quality measures. Survey and Certification inspections of individual records should serve as additional, not substitute, levels of oversight.

The OIG suggests several quantitative data elements that would indicate compliance with Federal requirements: In addition to State quality measures, CMS intends to examine existing and potential data sources, and possible data elements. This procedure would help determine the best indicators of State PASRR system compliance. We are piloting a new PASRR question on the Minimum Data Set.

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The CMS has released the State self-assessment form as a draft for comment. Comments from States and others are the basis for current revision of the tool. The State self-assessment form and the activities described in these comments replace the draft Regional Office assessment tool, which was based on a now outdated field survey model.

OIG Recommendation

Hold States accountable for considering community placements during the Level II PASRR process.

- *Work with State Medicaid agencies to develop tools, such as protocol, forms, and guidance to evaluators, to ensure that community-based alternatives to nursing facility placement are considered.*
- *Reviewing all States Level II PASRR evaluation forms to ensure that consideration of community placement is included.*

CMS Response

We concur. In the past year CMS has developed materials and given presentations emphasizing the Federal requirement that PASRR evaluation and determinations consider community-based alternatives to nursing facility placement. We intend to review the forms and tools used by each State for PASRR Level II evaluation and determination.

OIG Recommendation

Revise survey and certification requirements to ensure that State surveyors:

- *sample residents with serious mental illness,*
- *review all PASRR documentation for timely completion, and*
- *review care plans for the incorporation of all Level II PASRR mental health service recommendations.*

CMS Response

We concur with the recommendation. When the Quality Indicator Survey (QIS) process is implemented, PASRR Level I and II documentation will be included in the selected sample of residents. The purpose of the documentation review will be to determine the nursing facility's compliance with PASRR requirements.

Once again, we thank you for the opportunity to review and comment on this draft report. The data and recommendations in this report help CMS improve oversight of the PASRR program. With the exception of annual reporting from States, we have been issuing guidance as suggested in the first recommendation; we will additionally make more formal

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notice to States. Annual reporting will be a key enhancement to our oversight role. Similarly, we have been issuing guidance relevant to the second OIG recommendation, and will now, in addition, review each State protocol. Regarding survey and certification, surveyors currently review nursing facility compliance with PASRR requirements if PASRR documentation is found in the selected resident sample. We will strengthen PASRR oversight in accord with the final OIG recommendation by ensuring that a resident requiring Level II PASRR evaluation is included in the resident sample. In addition to compliance with specific Federal requirements, CMS is committed to the overall purpose of the PASRR program. We will work with States to implement effective quality management of their PASRR programs, and report annually on measures of their progress.

► A C K N O W L E D G M E N T S

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