

OBRA 101

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Check-In Code: _____



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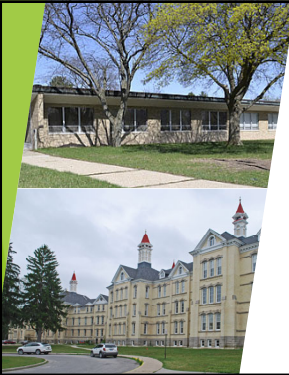
Statewide Partners

- ▶ MDHHS Contracts with local Community Mental Health Service Providers (CMHSP) across the state to conduct PASARR assessments and provide mental health services to their catchment areas.
- ▶ Calls made to our office should first be triaged by your local CMHSP's OBRA Coordinator.

What is OBRA?

- Omnibus
- Budget
- Reconciliation
- Act (of 1987)

HISTORY OF OBRA



Historically, individuals have been widely “warehoused” in state psychiatric hospitals

- ▶ <https://www.usa.gov/news-features/infographics/mental-health-services>
- ▶ http://en.wikipedia.org/wiki/Florence_City_State_Hospital



- ▶ https://opa.city.us/site101_vpsilant1_418P_Hospital.html
- ▶ https://www.michigan.gov/mdhhs/0,5005,7,139,71550_2941_4868_4894_92486-495569--,00.html
- ▶ <http://projects.leadr.msu.edu/mhpp/items/show/6>
- ▶ https://www.michigan.gov/mdhhs/0,5005,7,139,71550_2941_4868_4894_92486-495569--,00.html

A very brief history of Deinstitutionalization

- ▶ 1955: Deinstitutionalization began with the introduction of chlorpromazine (more commonly known as Thorazine)
- ▶ 1965: Medicaid and Medicare Act enacted, making this drug more widely accessible
- ▶ People were able to be more “adequately” treated in the community
 - ▶ Less of a need for such restrictive care environments

<https://www.pbs.org/wgbh/pages/frontline/shows/asylums/special/excerpt.html#:~:text=Deinstitutionalization%20began%20in%201955%20with%20the%20enactment%20of%20Medicaid.>

A very brief history of Deinstitutionalization, cont'd

- ▶ “Deinstitutionalization was based on the principle that severe mental illness should be treated in the least restrictive setting”, based on recommendations of President Jimmy Carter’s Presidential Commission on Mental Health
- ▶ Post-closure of the institutions, there was a mass movement of people with mental illness and/or developmental/intellectual disabilities from State Psychiatric Facilities into Nursing Homes and jails/prisons
 - ▶ This sounds like they were still being “warehoused”, doesn’t it?

<https://www.pbs.org/wgbh/pages/frontline/shows/asylums/special/excerpt.html#:~:text=Deinstitutionalization%20began%20in%201955&Ovth.of%20Federal%20Medicaid%20benefit%20Medicare.>

Olmstead Decision

- ▶ Lois Curtis and Elaine Wilson were voluntarily admitted to a Georgia state psychiatric hospital for treatment of their mental illnesses and developmental disabilities.
- ▶ Upon reaching their treatment goals, they were recommended to discharge to the community.
- ▶ The women remained in the institution. They filed suit under the ADA for their release.
- ▶ June 22, 1999: “United States Supreme Court held in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of title II of the Americans with Disabilities Act.”

https://www.ada.gov/olmstead/olmstead_about.htm

Olmstead Decision, cont'd

- ▶ Public entities must provide community-based services to persons with disabilities when
 - ▶ (1) such services are appropriate;
 - ▶ (2) the affected persons do not oppose community-based treatment;
 - ▶ (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

https://www.ada.gov/olmstead/olmstead_about.htm

Olmstead Decision, cont'd

- ▶ The Supreme Court explained:
 - ▶ "Institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life."
 - ▶ "Confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

OBRA

1987: Congress enacted legislation to strengthen the protection of nursing facility residents' rights (OBRA).

This legislation was the product of more than 10 years work by a coalition of advocates, nursing facility residents and families, representatives of business and labor, and nursing facility providers.

Federal Nursing Home Reform Act from the Omnibus Budget Reconciliation Act of 1987 (OBRA '87)

Required nursing facilities to meet specific standards to qualify for Medicare and Medicaid reimbursement.

The Medicaid Rules regarding long term care facilities and the implementation of the OBRA requirements were finalized in December 1992.

PASARR
Preadmission
Screen/Annual
Resident
Reviews

By April 1, 1990, states had to conduct Preadmission Screenings and Annual Resident Reviews (PASARR) to determine whether individuals with mental illness, intellectual/developmental disability or a related condition were appropriately placed.

Individuals identified as having a "PASARR condition" must not be placed into--or remain in--a nursing facility unless they meet criteria for nursing facility care or criteria for Transfer Trauma or the Thirty Month Rule.**

PASRR Video
Washington State Department of Social and Health Services

- ▶ The Developmental Disabilities Administration (DDA) Preadmission Screening and Resident Review (PASRR) is working to improve employees' ability to "hear" those who don't communicate with words.
- ▶ https://youtu.be/zlWy_9zhlcE

*PASARR and PASRR are used interchangeably. Most states don't conduct Annual Resident Reviews so the federal regulations dropped the second A

Two main goals of PASARR

- ▶ To ensure individuals are placed in the "least restrictive" setting possible
- ▶ If an individual with a mental illness, intellectual disability or related condition remains in the nursing facility, they must be offered appropriate mental health services.



LEVEL I REFERRAL DCH-3877/DCH-3878

The MDHHS pre-admission screening and annual resident review (PASARR) is a two- tiered screening and evaluation process.

The Level I Screen consists of a DCH-3877 form and, when applicable, a DCH-3878 form.

The Level I Screen identifies individuals who may have a mental illness, intellectual/developmental disability or related conditions.

Level I/DCH-3877

The screenshot shows the 'PRE-ADMISSION SCREENING (PASARR) - RESIDENT REVIEW ONLY' form. It includes sections for 'PERSONAL INFORMATION', 'SECTION I - Personal, Legal, Employment and Agency Information', and 'SECTION II - CURRENT AND PAST PSYCHIATRIC AND BEHAVIORAL INFORMATION'. The form contains various checkboxes and fields for data entry.

What does it mean?

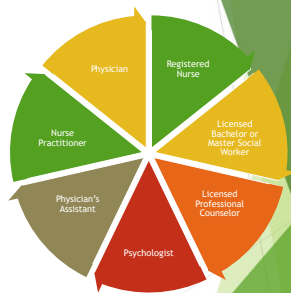
- PAS
- ARR
- Change in Condition
- Hospital Exempted Discharge

PAS = Pre-Admission Screen
ARR = Annual Resident Review

When is Level I completed?

- ▶ Anytime a person is being admitted to a nursing home
 - ▶ A person is discharging from a hospital to nursing home
 - ▶ Community provider (PCP, homecare provider, etc) identifies the need for nursing home level of care
- ▶ Annually, when an individual resides in a nursing home

What professions can complete the Level I?



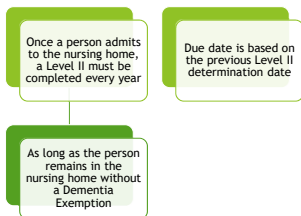
Who are these people?



Pre-Admission Screen

- ▶ The full Level II must be completed prior to the person admitting to the nursing home
 - ▶ Community referrals (living independently, AFC, etc)
 - ▶ Psychiatric Hospital stays
 - ▶ Admitting directly into long-term care (not rehab)
 - ▶ Observation beds
 - ▶ Emergency Room

Annual Resident Review



Change in Condition examples

- ▶ A person admits with all "No's" marked on the 3877 and is later diagnosed in the nursing facility with a Serious Mental Illness
 - ▶ Common example will go from Adjustment Disorder to Major Depressive Disorder
- ▶ A person admits with a Dementia Exemption and it is later determined the Dementia diagnosis is no longer primary
 - ▶ I.e. could benefit from mental health services
- ▶ Resident is psychiatrically hospitalized during the ARR review year
- ▶ Resident requires more intensive services and moving from Other Mental Health Services to Specialized Mental Health Services

Exemptions to the Level II Process

- ▶ There are three instances a person may be exempted from a Level II assessment (for those who have "yes" answers on the Level I)
 - ▶ Coma
 - ▶ Dementia
 - ▶ Hospital Exempted Discharge

Level I - 3878

MENTAL ILLNESS/INTELLECTUAL/DEVELOPMENTAL DISABILITY/LATE ONSET PSYCHOTIC DISORDER WITH CURRENT PSYCHOSIS
 Michigan Department of Health and Human Services
 01/19/2019 (last updated)

INSTRUCTIONS

- 1. Mark responses "yes" and "no" in the appropriate column.
- 2. The patient being assessed must require a comprehensive SMI, or a resident (3878) any of the following conditions: current or past psychosis, or a current or past diagnosis of a psychotic disorder, or a current or past diagnosis of a psychotic disorder, or a current or past diagnosis of a psychotic disorder.

QUESTIONS

1. Has the patient ever been hospitalized in a psychiatric hospital?
 YES: Specify the patient's admission date and the date of discharge.
 NO: Specify the patient's admission date and the date of discharge.

2. Has the patient ever been hospitalized in a psychiatric hospital?
 YES: Specify the patient's admission date and the date of discharge.
 NO: Specify the patient's admission date and the date of discharge.

QUESTIONS

1. Has the patient ever been hospitalized in a psychiatric hospital?
 YES: Specify the patient's admission date and the date of discharge.
 NO: Specify the patient's admission date and the date of discharge.

Patient Name: _____ Date of Birth: _____

1. SMI:

- a. Has the patient ever been hospitalized in a psychiatric hospital?
- b. Has the patient ever been hospitalized in a psychiatric hospital?

2. HOSPITAL EXEMPTED DISCHARGE:

- a. Has the patient ever been hospitalized in a psychiatric hospital?
- b. Has the patient ever been hospitalized in a psychiatric hospital?

3. COMA:

- a. Has the patient ever been hospitalized in a psychiatric hospital?
- b. Has the patient ever been hospitalized in a psychiatric hospital?


4. DEMENTIA:

- a. Has the patient ever been hospitalized in a psychiatric hospital?
- b. Has the patient ever been hospitalized in a psychiatric hospital?

5. CURRENT PSYCHOSIS:


- a. Has the patient ever been hospitalized in a psychiatric hospital?
- b. Has the patient ever been hospitalized in a psychiatric hospital?

Hospital Exempted Discharge




A Physician/PA/NP certifies the following:

- The patient is being admitted after an inpatient medical hospital stay **AND**
- The patient requires nursing facility services for the condition for which he/she received hospital care **AND**
- The patient is likely to require less than 30 days of nursing services.



Cannot be used from a psychiatric hospitalization or Obs/ED



Cannot be used from home or AFC

Hospital Exempted Discharge

- ▶ This exemption is unique in that it may lead to a Level II
- ▶ An individual who meets the criteria for an HED (see previous slide) may be admitted from a hospital to a nursing home without having a PAS completed first
- ▶ If that individual remains in the nursing facility for 25 days, they must be referred to the CMH for a Level II
 - ▶ This is done by forwarding the original/admitting DCH-3877 AND the properly completed DCH-3878 to the local CMH's OBRA Coordinator
- ▶ At this point, the CMH has 14 days to complete the Level II
- ▶ The MDHHS staff will make a determination on continued nursing home placement

Coma Exemption

- ▶ A Physician/PA/NP must certify the patient under consideration is in a coma/persistent vegetative state
 - ▶ A person cannot be adequately assessed for mental health needs when in this condition
 - ▶ A person would most likely not benefit from mental health services in this condition

Dementia Exemption

- ▶ A Physician/PA/NP must certify the patient:
 - ▶ has dementia as established by clinical examination and evidence of meeting ALL 5 criteria below (see next slide)
 - ▶ does not have another primary psychiatric diagnosis of a serious mental illness
 - ▶ does not have an intellectual disability, developmental disability or a related condition
 - ▶ A person with an ID/DD cannot be exempted under Dementia criteria

Dementia Exemption

1. Has demonstrable evidence of impairment in short-term or long-term memory as indicated by the inability to learn new information or remember three objects after five minutes, and the inability to remember past personal information or facts of common knowledge
2. Exhibits at least one of the following:
 - ▶ Impairment of abstract thinking, as indicated by the inability to find similarities and differences between related words; has difficulty defining words, concepts and similar tasks
 - ▶ Impaired judgment, as indicated by inability to make reasonable plans to deal with interpersonal, family and job-related issues
 - ▶ Other disturbances of higher cortical function, i.e., aphasia, apraxia and constructional difficulty
 - ▶ Personality change: altered or accentuated premorbid traits

Dementia Exemption

3. Disturbances in items 1 or 2 above significantly interfere with work, usual activities or relationships with others.
4. The disturbance has NOT occurred exclusively during the course of delirium
5. EITHER:
 - ▶ a. Medical history, physical exam and/or lab tests show evidence of a specific organic factor judged to be etiologically related to the disturbance, OR
 - ▶ b. An etiologic organic factor is presumed in the absence of such evidence if the disturbance cannot be accounted for by any non-organic mental disorder

Process Flow

- | | | |
|--|--|---|
| <p>All answers on the 3877 are "no"</p> <ul style="list-style-type: none"> The person may be admitted to the nursing facility | <p>There is a "yes" answered on the 3877</p> <ul style="list-style-type: none"> If there is a proper exemption, they may be admitted. If no exemption, the local CMHSP must be contacted | <p>The local Coordinator will triage the case</p> <ul style="list-style-type: none"> If the person meets criteria for SMI*, a Level II will be completed If the Coordinator finds the individual to not meet SMI criteria, they will write a "Not SMI Letter" |
|--|--|---|

*SMI: Serious Mental Illness, also used for Not ID/DD

LEVEL II PROCESS

Persons who are identified on the Level I Screen by any "YES" answer on the DCH-3877 and who do not meet exemption criteria must be referred to the local CMHSP for the possible need of a Level II evaluation. The Level II evaluation is conducted by the CMHSP under contract with MDHHS. MDHHS bases the determination of the need for Nursing Facility Services and/or Specialized Mental Health Services from the information in the Level II evaluation.

The Level II consists of psychosocial, medical, psychiatric, psychological and sensorimotor sections that create a picture of the consumer and their needs to make them successful in their placement. More on that in part two of this presentation!

Level II

- ▶ The local CMHSP Coordinator will assign assessors to complete the Level II assessment
- ▶ PAS Prior to admission to nursing home
 - ▶ Meets at hospital, home, etc
- ▶ ARR, CIC, HED once admitted
 - ▶ Meets at Nursing Home
- ▶ Team is made up of at least two people
 - ▶ Psychosocial/Psychiatric Assessor (Social Worker, Psychologist, Counselor)
 - ▶ Nurse
 - ▶ Medical portion is reviewed and counter-signed by Physician
 - ▶ For ID/DD individuals, a Psychologist and PT/OT is also involved

Level II Process

- Once the Coordinator submits the Level I, Level II, and other supporting documents to the State MDHHS Office, it is reviewed
- The reviewer will make a determination based on what is provided by the Coordinator. The reviewer may also make additional recommendations for services.
- Determinations can be good up to one year from the day of determination. More frequent re-evals may be requested, depending on the case

Who is responsible for residents receiving mental health services?

THE NURSING HOME!

- ▶ Per OBRA/PASRR Guidelines, it is ALWAYS the responsibility of the Nursing Home that the residents' needs are met
- ▶ A community mental health agency may be unable to provide or make available a given service for a variety of reasons such as waiting lists, the service is not regularly provided by CMHSP or transportation that is required to an outpatient service, etc.
 - ▶ In such cases, the nursing facility may have to locate another provider. The nursing facility is not relieved of its responsibility merely because a referral has been made
