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DEPARTMENT FOR MEDICAID SERVICES
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JAMES W. HOLSINGER, JR., M.D.
SECRETARY

January 30, 2004

Home and Community Based Waiver Provider Letter # A-60

Dear Home and Community Based Waiver Provider:

Effective January 30, 2004, the Department for Medicaid Services has revised the nursing facility (NF) level of care criteria in 907 KAR 1:022.

The two (2) significant amendments to the regulation are (1) changing the number of criteria needed to meet nursing facility level of care from two care criteria as opposed to the amendment change on April 4, 2003 that required three care criteria: and (2) to add a provision that includes, under limited circumstances, that the effect of transferring a recipient from the nursing facility be considered if the recipient does not meet the two care criteria.

Administrative Regulation 907 KAR 1:022E as amended states that an individual, in order to qualify for Medicaid payment for nursing facility care, must only meet a combination of at least two (2) of the following nine (9) care need categories:

- Assistance with mobility;
- Physical or environmental management for confusion or agitation;
- Must be fed;
- Assistance with going to bathroom or using bedpan for elimination;
- Assistance with the administration of stabilized dosages of medication;
- Requires restorative and supportive nursing care;
- Assistance with the administration or preparation of injections by licensed personnel;
- Is incapable of providing self-care due to physical or mental conditions; or
- Displays a lack of cognition and communication.

The Department is also adding, "transfer trauma criteria" in the amended administrative regulation 907 KAR 1:022E. This provision addresses those residents who may have resided in an institution for an extended period of time and who no longer qualify for nursing facility services under the new level of care requirements. The transfer trauma criteria states that a Medicaid recipient who does not meet the nursing facility level of care criteria shall not be discharged from an NF if:

- The recipient has resided in an NF for at least eighteen (18) consecutive months;
- The recipient's attending physician determines that the recipient would suffer transfer trauma in that the recipient's physical, emotional or mental well being would be compromised by or after a discharge action;
- The department confirms the recipient's attending physician's assessment regarding the possible trauma that could be caused by discharge from the NF;
- The recipient shall remain in an NF and continue to be covered by the department for provider reimbursement at least until the recipient's subsequent assessment; and
- Be reassessed for possible transfer trauma every six (6) months.

A copy of the MAP 4105, Application for Transfer Trauma Exemption form, is attached for your use.

For those residents who are currently in appeal status, this new criteria requirement will now be used for evaluation of their level of care determination. Additionally, for those recipients who were denied level of care under the former criteria, the Department will be mailing notification to these individuals that the criteria required to meet level of care has changed and they may choose to reapply for services if they so desire.

A frequently asked questions and answers page (FAQ) is enclosed with this provider letter and will be posted on the Department's website at www.chs.ky.gov/dms.

Should you have any questions or need further clarification, please contact Mr. Benjamin R. Sweger, Director, Division of Long Term Care & Disability Services at (502) 564-7540.

Sincerely,

Russ Fendley
Commissioner

Enclosure

RF/jm/amc