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CHAPTER 67:16:50

PREADMISSION SCREENING AND RESIDENT REVIEW

Section

67:16:50:19 Significant change.

67:16:50:20 New admission and readmission.

67:16:50:21 Interfacility transfer.

67:16:50:22 Out-of-state placement.

67:16:50:23 Fair hearings.

67:16:50:01. Definitions. Terms used in this chapter mean:

(1) "Active treatment," the implementation of a program of specialized and generic training, treatment, health services, and related services, which leads to the acquisition of the behaviors necessary for an individual to function with as much self-determination and independence as possible, and to prevent regression or loss of current optimal functional status;

(2) "Dementia," a disorder characterized by the development of multiple cognitive deficits due to the direct physiological effects of a general medical condition, to the persisting effect of a substance, or to multiple etiologies;

(3) "Developmental disability," as defined by SDCL 27B-1-18;

(4) "Intellectual disability," a condition characterized by significant limitations in both intellectual functioning and adaptive behavior that originates before the age of twenty-two;

(5) "Level I screen," a screening pursuant to 42 C.F.R. § 483.102 (July 12, 2006), used to identify if a person has a serious mental illness or an intellectual or developmental disability;

(6) "Level II," an evaluation of a person identified in a Level I screen to confirm the preadmission screening and resident review condition and determine if nursing facility services and specialized services are needed;

(7) "Nursing facility," as defined in SDCL 34-12-1.1;

(8) "Resident review," a review to determine the appropriateness for a resident to remain in a nursing facility and if the resident needs specialized services;

(9) "Serious mental illness," a condition that meets the requirements for diagnosis, level of impairment, and duration of illness pursuant to 42 C.F.R. § 483.102 (July 12, 2006);

(10) "Specialized services," the services specified by the state for an individual which, when combined with the services provided by a nursing facility or other service provider, results in active treatment;

(11) "State Intellectual Disability Authority," the Department of Human Services Division of Developmental Disabilities;

(12) "State Medicaid Authority," the department's Division of Medical Services; and

(15) "State Mental Health Authority," the department's Division of Behavioral Health.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:02. Preadmission screening and resident review. A medicaid-certified nursing facility shall, upon an individual's admission or if a resident's condition has a significant change:

(1) Evaluate a resident or applicant for a serious mental illness and an intellectual or developmental disability;

(2) Offer the resident or applicant the most appropriate setting for their needs; and

(3) Provide the resident or applicant the services needed in an appropriate setting.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:03. Level I screen. A referring or accepting provider shall conduct a Level I screen to determine if an individual seeking medicaid-certified nursing facility services has a serious mental illness or an intellectual or developmental disability.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:04. Circumstances that do not require a Level II evaluation. Following the Level I screen, an individual is exempt from a Level II evaluation if:

(1) There is no substantiated diagnosis of a serious mental illness or an intellectual or developmental disability;

(2) The individual is readmitted pursuant to § 67:16:50:20;

(3) The individual is transferred pursuant to § 67:16:50:21;

(4) There is a diagnosis of situational depression or anxiety that is of short duration and in direct relation to an occurrence in an individual's life, and it does not appear that it will lead to a chronic disability;

(5) The individual does not have a serious mental illness diagnosis and is using psychotropic medication; or

(6) The individual has a primary diagnosis of dementia or a related disorder.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:05. Exempt hospital discharge. An individual is exempt from the preadmission screening and resident review process following a hospital discharge if:

(1) The individual is admitted to a medicaid-certified nursing facility, directly from a hospital, after receiving acute inpatient care at the hospital;

(2) The individual requires medicaid-certified nursing facility services for the condition that required care in the hospital; and

(3) The individual's attending physician has certified, before admission to the medicaid-certified nursing facility, that the individual is likely to require less than thirty calendar days of medicaid-certified nursing facility services.

The medicaid-certified nursing facility must have a completed exempt hospital discharge form on file for an individual if the exemption criteria for any subdivision in this rule applies. If an individual enters a medicaid-certified nursing facility as an exempt hospital discharge and is later found to require more than thirty days of nursing care, the facility must request a preadmission screening and resident review prior to the expiration of that thirty days.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:06. Categorical determinations for Level I. The State Mental Health Authority or State Intellectual Disability Authority shall make an advance group categorical determination for a nursing facility applicant or resident who may have a preadmission screening and resident review condition when:

(1) The individual has been diagnosed by a physician with a terminal illness, or has hospice involvement that includes a life expectancy of six months or less;

(2) The individual has a severe physical illness that has resulted in a coma or ventilator dependence;

(3) A physician identifies the need for the individual to have convalescent care following an inpatient hospitalization of less than one hundred days;

(4) The individual's respite stay is less than thirty days; or

(5) The individual receives provisional emergency admission not to exceed seven days with placement in the nursing facility following suspected abuse or neglect or a natural disaster that involves loss of housing or unsafe housing for the individual, and law enforcement or adult protective services are involved.

If a categorical determination is made, a Level I screen must be completed and submitted. An abbreviated evaluation report is sent to the individual, the State Mental Health Authority or State Intellectual Disability Authority, the admitting or retaining nursing facility, and the discharging hospital, if applicable. The abbreviated evaluation report must also be sent to the individual's attending physician or made available for review at the facility.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:07. Level II review. The State Mental Health Authority or State Intellectual Disability Authority shall conduct a Level II review to determine whether a medicaid-certified nursing facility, specialized services, or both, is appropriate for an individual.

The individual must be reviewed for appropriateness of placement, regardless of the source of payment for the nursing facility services. A determination must be made whether the individual requires the level of services provided by the facility, and whether or not an individual can benefit from specialized services.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:08. Level II State Mental Health Authority evaluation. An independent evaluator shall complete the Level II evaluation based on an independent physical and mental evaluation performed by a person or entity other than the State Mental Health Authority for an individual with an identified serious mental illness as required in 42 C.F.R. § 483.106 (April 28, 1993). A preadmission screening and resident review Level II evaluation must involve:

(1) The individual being evaluated;

(2) The individual's legal representative, if applicable; and

(3) The individual's family, if available and the individual consents.

The Level II evaluation must be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated.

Data must be collected and evaluated pursuant to 42 C.F.R. §§ 483.132 and 483.134 (October 1, 2024).

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:09. Level II State Mental Health Authority determination. The independent evaluator, as described in 42 C.F.R. § 483.106 (April 28, 1993), shall submit an evaluation report and all data collected to the authority for final determination. The authority shall determine if the individual requires the level of services provided by the medicaid-certified nursing facility and if specialized services are appropriate.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:10. Level II State Intellectual Disability Authority evaluation. The State Intellectual Disability Authority shall complete the Level II evaluation for an individual with an identified intellectual or developmental disability. A preadmission screening and resident review evaluation must involve:

(1) The individual being evaluated;

(2) The individual's legal representative, if applicable; and

(3) The individual's family, if available and the individual consents.

The evaluation the State Intellectual Disability Authority performs must be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated.

The minimum data that must be collected and evaluated is defined in 42 C.F.R. §§ 483.132 and 483.134 (October 1, 2024).

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:11. Level II State Intellectual Disability Authority determination. The State Intellectual Disability Authority shall complete a Level II evaluation using all evaluated data and completed assessments to determine if an individual requires the level of services provided by the medicaid-certified nursing facility and if specialized services are appropriate.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:12. Determination of specialized services. If the State Mental Health Authority or State Intellectual Disability Authority determines that an individual requires medicaid-certified nursing facility services, the authorities must also determine whether the individual would benefit from specialized services.

If the authorities determine that the individual requires both medicaid-certified nursing facility services and specialized services, the facility may admit or retain the individual, and the authorities must provide or arrange to provide the specialized services needed by the individual in the medicaid-certified nursing facility.

If the authorities determine that the individual does not require medicaid-certified nursing facility services but would benefit from specialized services, the authorities must provide the individual with information regarding service options.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:13. Notification of Level II determination. The State Mental Health Authority, State Intellectual Disability Authority, or both when applicable, shall issue a written notification of the Level II review determination. The notification must include:

(1) Whether a Medicaid nursing facility level of services is needed;

(2) Whether specialized services are needed;

(3) The placement options available to the individual that are consistent with the review determination;

(4) The appeal rights of the individual; and

(5) The evaluation report.

A copy of the Level II determination notification must be sent to the individual, the appropriate state authorities, the admitting or retaining nursing facility, and the discharging hospital, if applicable. A copy of the Level II determination notification must also be sent to the individual's attending physician, or made available for review at the facility.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:14. Termination of a preadmission screening and resident review. The preadmission screening and resident review process may be terminated by the State Mental Health Authority or State Intellectual Disability Authority at any time during the evaluation or determination if the individual being evaluated is found to not have a serious mental illness or an intellectual or developmental disability.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:15. Timeliness of a Level II determination. The State Mental Health Authority and State Intellectual Disability Authority shall make each Level II determination within an annual average of seven to nine business days of receipt of the Level I referral.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:16. Determination may not be countermanded. The State Medicaid Authority may not countermand a Level II determination made by the State Mental Health Authority or State Intellectual Disability Authority either in the claims process or through other utilization control or review processes.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:17. Length of stay. For the purpose of establishing length of stay in a medicaid-certified nursing facility, thirty months of continuous residence in a medicaid-certified nursing facility may include temporary absences for hospitalization or therapeutic leave, and may consist of consecutive residences in more than one medicaid-certified swing bed or nursing facility.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:18. Individual not requiring nursing facility services but requiring specialized services for preadmission screening and resident review condition -- Thirty-month determination. If an individual has resided in a medicaid-certified nursing facility prior to a determination of eligibility, and was determined not eligible for nursing home services, but requires specialized services, the State Mental Health Authority or State Intellectual Disability Authority, in consultation with the individual's family, the individual's legal representative, if applicable, and the individual's family, if available and the individual consents, must:

(1) For an individual who has continuously resided in a medicaid-certified nursing facility at least thirty months:

(a) Offer the individual the choice of remaining in the nursing facility or receiving services in an alternative setting;

(b) Inform the individual of the institutional and noninstitutional alternatives covered under the state medicaid plan;

(c) Inform the individual of any effect on the individual's eligibility for medicaid services under the state plan, or any effect on readmission, if the individual chooses to leave the nursing facility; and

(d) Provide or arrange specialized services for the individual's serious mental illness or intellectual or developmental disability; or

(2) For an individual who has resided in a medicaid-certified nursing facility for less than thirty months:

(a) Arrange for the safe and orderly discharge of the individual from the facility;

(b) Prepare and orient the individual for discharge; and

(c) Provide or arrange specialized services to treat the individual's serious mental illness or intellectual or developmental disability.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:19. Significant change. If a significant change occurs for an individual known or suspected to have a preadmission screening and resident review condition, the medicaid-certified nursing facility must initiate a new preadmission screening and resident review utilizing the Level I screen. The referral for a new review must occur within fourteen days of a significant change being identified by the nursing facility.

For purposes of this section, a significant change is a decline or improvement in an individual's status that:

(1) Would not normally resolve itself without intervention by staff or by implementing clinical interventions;

(2) Impacts more than one area of the individual's health status; and

(3) Requires interdisciplinary review or revision of the care plan.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:20. New admission and readmission. An individual admitted to any medicaid-certified nursing facility for the first time, who is not being readmitted, is subject to preadmission screening and resident review.

A readmission occurs when an individual is readmitted to a medicaid-certified nursing facility from a hospital to which the individual was transferred, from the nursing facility, for the purpose of receiving medical care. A preadmission screening and resident review is not required for a readmission.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:21. Interfacility transfer. A preadmission screening and resident review is not required for an interfacility transfer. The transferring nursing facility is responsible for ensuring that copies of the individual's preadmission screening and resident review accompany the individual.

For purposes of this section, an interfacility transfer occurs when the individual is transferred from one medicaid-certified nursing facility to another, with or without an intervening hospital stay.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:22. Out-of-state placement. The appropriate authority of the state in which an individual is a resident, or would be a resident at the time medicaid eligibility is obtained, if not this state, shall make the required preadmission screening and resident review determination.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 28-6-1.

67:16:50:23. Fair hearing. An individual, or the individual's legal representative, may request a hearing by notifying the department, orally or in writing, within thirty days of receiving the department's determination. Hearings are conducted under the provisions of chapter 67:17:02. Any costs associated with an individual's legal counsel are the responsibility of the individual.

Source:

General Authority: SDCL 1-36-25.

Law Implemented: SDCL 1-26-16, 28-6-1.

ARTICLE 67:62

MENTAL HEALTH

CHAPTER 67:62:15

PREADMISSION SCREENING AND RESIDENT REVIEW

Section

67:62:15:18 Interfacility transfers, Repealed.

67:62:15:19 Out of state placement, Repealed.

67:62:15:01. Definitions. ~~Terms used in this chapter mean:~~

~~(1) "Active treatment," the implementation of a program of specialized and generic training, treatment, health services, and related services, which lead to the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible, and to prevent regression or loss of current optimal functional status;~~

~~(2) "Dementia," disorders characterized by the development of multiple cognitive deficits, including memory impairment, which are due to the direct physiological effects of a general medical condition, to the persisting effects of a substance, or to multiple etiologies ;~~

~~(3) "Nursing facility," a facility licensed as a nursing facility by the Department of Health and maintained and operated for the express or implied purpose of providing care to one or more persons, whether for consideration or not, who are not acutely ill but require nursing care and related medical services of such complexity as to require professional nursing care under the direction of a physician twenty-four hours a day;~~

~~(4) "Preadmission screening and resident review," a process made up of a Level I screening completed by the department, and a Level II review completed by the department, to determine eligibility when an individual with a mental disorder, as defined in § 67:62:01:01, applies to reside in a Medicaid certified swing bed or nursing facility;~~

~~(5) "Specialized mental health services," psychiatric services that result in the continuous and aggressive implementation of an individualized plan of care developed by an interdisciplinary team consisting of a physician, a qualified mental health professional, and other professionals, which prescribes specific therapies and activities for the treatment~~

~~of individuals experiencing an acute episode of serious mental illness. requiring supervision by trained mental health professionals, to obtain improvement in function thereby permitting a reduction in the level of intensity to less than the level of specialized services at the earliest possible time; and~~

~~(6) "Swing bed," a licensed hospital bed approved by the Department of Health to provide short-term nursing facility care pending the availability of a nursing facility bed~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:02. Level I screening. ~~The department shall conduct a Level I screening that identifies each individual who is seeking Medicaid certified swing bed or nursing facility services who may have a mental illness~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25(4).~~

67:62:15:03. Level II review exemptions. ~~An individual is exempt from a Level II review if:~~

~~(1) The diagnosis of mental illness is unsubstantiated;~~

~~(2) The individual is readmitted to a Medicaid certified swing bed or nursing facility from a hospital to which the individual was transferred for the purpose of receiving care;~~

~~(3) The individual is transferred from one Medicaid certified swing bed or nursing facility to another, and a preadmission screening and resident review has previously been completed;~~

~~(4) The physician identifies the need for convalescent care following hospitalization for a duration of less than one hundred days;~~

~~(5) The physician orders a respite stay of thirty days or less;~~

~~(6) The individual has a diagnosis of situational depression that:~~

~~(a) Is of short duration;~~

~~(b) Is in direct relation to an occurrence in an individual's life; and~~

~~(c) Does not appear to be a chronic disability;~~

~~(7) The individual is using psychotropic medication in the absence of a major mental illness diagnosis; or~~

~~(8) The individual has a diagnosis of an anxiety disorder that is not identified as severe and does not appear to be leading to a chronic disability.~~

~~The department shall complete a Level I screening form to notify appropriate parties of the determination of the exemption~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:04. Exempt hospital discharge. ~~An individual is exempt from a preadmission screening and resident review (PASRR) following a hospital discharge if:~~

~~(1) The individual is admitted to a Medicaid certified swing bed or nursing facility, directly from a hospital, after receiving acute inpatient care at the hospital;~~

~~(2) The individual requires Medicaid certified swing bed or nursing facility services for the condition that required care in the hospital; and~~

~~(3) The individual's attending physician has certified, before admission to the Medicaid certified swing bed or nursing facility, that the individual is likely to require less than thirty calendar days of Medicaid certified swing bed or nursing facility services.~~

~~If an individual enters a Medicaid certified swing bed or nursing facility as an exempt hospital discharge and is later found to require more than thirty days of nursing care, the facility must request a PASRR prior to the expiration of that thirty days~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:05 Categorical determinations for Level I. ~~The department shall make a categorical determination in one of the following situations:~~

~~(1) A terminal illness diagnosis, determined by a physician or hospice involvement that includes a life expectancy of 6 months or less;~~

~~(2) A severe physical illness that has resulted in coma or ventilator dependence;~~

~~(3) The age of an individual is 75 years or older; or~~

~~(4) A primary diagnosis of dementia, including Alzheimer's disease or a related disorder or a non-primary diagnosis of dementia without a primary diagnosis that is a serious mental illness.~~

~~For any of these situations, the department shall complete a Level I screening form. A copy of the form shall be sent to the appropriate facility. A categorical determination may warrant Medicaid certified swing bed or nursing facility services but does not warrant mental health services or specialized services~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25(4).~~

67:62:15:06. Level II review. ~~The department shall conduct a Level II review that consists of determining the appropriateness of a Medicaid certified swing bed or nursing facility, and possible mental health services, including specialized mental health services for individuals identified in the Level I screening.~~

~~Each individual is reviewed for appropriateness of placement, regardless of the source of payment for the swing bed or nursing facility services. A determination whether or not an individual requires the level of services provided by the facility and whether or not an individual can benefit from mental health services is made~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:07. Level II determination -- Data requirements. ~~The data used for a Level II determination includes:~~

~~(1) A comprehensive social and developmental history and physical, including:~~

~~(a) Medical history;~~

~~(b) Review of body systems;~~

~~(c) Evaluation of the individual's neurological system in the areas of motor functioning, sensory functioning, gait, deep tendon reflexes, cranial nerves, and abnormal reflexes; and~~

~~(d) Additional evaluations conducted by appropriate specialists in case of abnormal findings;~~

~~(2) A comprehensive medication history including current or immediate past use of medications that could mask symptoms or mimic mental illness;~~

~~(3) A psychosocial evaluation of the individual, including current living arrangements and medical and support systems;~~

~~(4) A comprehensive psychiatric or psychological evaluation including a complete psychiatric and development history; evaluation of intellectual functioning, memory functioning, and orientation; description of current attitudes and overt behaviors; affect, suicidal, or homicidal ideation, paranoia, and degree of reality testing (presence and content of delusions) and hallucinations; and~~

~~(5) A functional assessment of the individual's ability to engage in activities of daily living and the level of support that would be needed to assist the individual to perform these activities. This assessment shall conclude whether this level of support can be~~

~~provided to the individual in an alternative community setting or if a nursing facility placement is warranted~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25(4).~~

67:62:15:08. Determination of services. ~~The department shall determine if the individual requires the level of services provided by a Medicaid certified swing bed or nursing facility due to the individual's physical or mental condition. If the department determines that an individual requires a Medicaid certified swing bed or nursing facility services, the facility may admit or retain the individual. If the department determines that an individual does not require Medicaid certified swing bed or nursing facility services, the individual may not be admitted~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:09. Determination of specialized mental health services. ~~If the department determines that the individual requires Medicaid certified swing bed or nursing facility services, the department must also determine whether the individual may benefit from mental health services.~~

~~If the department determines that an individual requires both Medicaid certified swing bed or nursing facility services and specialized mental health services as defined in § 67:62:15:01, the facility may admit or retain the individual and the state shall provide or arrange for the provision of the specialized mental health services needed by the individual in the Medicaid certified swing bed or nursing facility.~~

~~If the department determines that the individual does not require Medicaid certified swing bed or nursing facility services, but may benefit from mental health services, the department shall provide the individual with information regarding service options~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:10. Timeliness of determinations of Level II review. ~~The department shall make each Level II determination within an annual average of seven-to-nine business days of receipt of the Level I screening and all of the data required in § 67:62:15:07~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:11. Notification of Level II determination. ~~The department shall issue a written notification of the Level II review determination. The notification must contain:~~

~~(1) The name of each professional who performed an evaluation used to make the Level II determination;~~

~~(2) The date each portion of the evaluation was administered; and~~

~~(3) Any other information used to make the Level II determination.~~

~~The department shall provide a copy of the notification to the individual on whom the Level II review was completed; the individual's legal representative, if applicable; the Medicaid certified swing bed or nursing facility; and any other party affected by the Level II determination~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:12. Determination may not be countermanded. ~~A Level II determination made by the division may not be countermanded by the department~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:13. Appeal of ineligibility of Level II determination. ~~The individual, or the individual's legal representative, may request a fair hearing within 30 calendar days of receipt of the notice of ineligibility pursuant to SDCL chapter 1-26 by notifying the department in writing. Upon request, the individual, or the individual's legal representative, will be provided with information in an accessible format. Any costs associated with legal counsel obtained to represent the individual are not the responsibility of the department~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25(4).~~

67:62:15:14. Length of stay. ~~For the purposes of establishing length of stay in a Medicaid certified swing bed or nursing facility, the 30 months of continuous residence in a Medicaid certified facility may include temporary absences for hospitalization or therapeutic leave and may include consecutive residences in more than one Medicaid certified swing bed or nursing facility~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25(4).~~

67:62:15:15. Individuals not requiring swing bed or nursing facility services but requiring mental health services -- 30 month determination. ~~If the individual is determined not eligible for swing bed or nursing home services, but requires mental health services, the department, in consultation with the individual's family or legal representative and caregivers, shall:~~

~~(1) If the individual has continuously resided in a Medicaid certified swing bed or nursing facility at least 30 months prior to a determination of eligibility and determined not eligible for swing bed or nursing home services, but who require mental health services, the department, in consultation with the individual's family or legal representative and caregivers, shall:~~

~~(a) Offer the choice of remaining in the facility or receiving services in an alternative setting;~~

~~(b) Inform the individual of the institutional and non-institutional alternatives covered under the state Medicaid plan;~~

~~(c) Clarify the effect on the individual's eligibility for Medicaid services under the state plan if the individual chooses to leave the Medicaid certified swing bed or nursing facility, including the effect on readmission to the Medicaid certified swing bed or nursing facility; and~~

~~(d) Provide, or arrange the provision of, mental health services for the mental illness; or~~

~~(2) If the individual has been residing in the Medicaid certified swing bed or nursing facility less than 30 months prior to a determination of eligibility and determined not eligible for swing bed or nursing home services, but who requires mental health~~

~~services, the department, in consultation with the individual's family or legal representative and caregivers, shall:~~

~~(a) Arrange for the safe and orderly discharge of the individual from the facility;~~

~~(b) Prepare and orient the individual for discharge; and~~

~~(c) Provide, or arrange for the provision of, mental health services for the mental illness~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25(4).~~

67:62:15:16. Significant change. ~~A significant change is a decline or improvement in an individual's status that:~~

~~(1) Will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions;~~

~~(2) Impacts more than one area of the individual's health status; and~~

~~(3) Requires interdisciplinary review or revision of the care plan.~~

~~A self-limiting decline is not considered a significant change. If a significant change occurs for an individual known or suspected to have a mental illness, the Medicaid certified swing bed or nursing facility must make a referral to the department for a possible Level II review. This referral must occur as soon as evidence of the significant change is identified~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:17. New admission and readmission. ~~A new admission occurs if an individual is admitted to a Medicaid certified swing bed or nursing facility for the first time, or when an admission does not qualify as a readmission. Unless excepted under § 67:62:15:04, a new admission is subject to a preadmission screening and resident review (PASRR).~~

~~A readmission occurs when an individual is readmitted to a Medicaid certified swing bed or nursing facility, from a hospital to which the individual, who was in a facility, had been transferred, for the purpose of receiving medical care. A readmission that meets the criteria set forth in this section does not require a PASRR~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:18. Interfacility transfers. ~~An interfacility transfer occurs if the individual is transferred from one Medicaid certified swing bed or nursing facility to another, with or without an intervening hospital stay. An interfacility transfer is not subject to a preadmission screening and resident review. If an individual transfers from a Medicaid certified swing bed or nursing facility to a hospital, or to another Medicaid certified swing bed or nursing facility, the transferring facility must ensure that copies of the individual's preadmission screening and resident review findings accompany the individual~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

67:62:15:19. Out of state placement. ~~The required preadmission screening and resident review determination must be conducted by the state in which the individual:~~

~~(1) Resides; or~~

~~(2) Will reside at the time Medicaid eligibility is obtained~~ Repealed.

Source: 43 SDR 80, effective December 5, 2016; 50 SDR 63, effective November 27, 2023.

~~**General Authority:** SDCL 1-36-25.~~

~~**Law Implemented:** SDCL 1-36-25.~~

~~**Cross Reference:** Out-of-State arrangements, 42 C.F.R. § 483.110.~~