

ARTICLE 46:11

DEVELOPMENTAL DISABILITIES

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CHAPTER 46:11:13

PREADMISSION SCREENING AND RESIDENT REVIEWS

(Repealed)

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46:11:13:01. Definitions. ~~Terms in this chapter mean:~~

~~—— (1) "Active treatment," the implementation of a program of specialized and generic training, treatment, health services, and related services that 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, that are due to the direct physiological effects of a general medical condition, to the persisting effects of a substance, or to multiple etiologies such as the combined effects of cerebrovascular disease and Alzheimer's disease;~~

~~—— (3) "Nursing facility," as defined in subdivision 67:45:01:01(9);~~

~~—— (4) "Preadmission screening and resident review" or "PASRR," a process made up of a Level I screening completed by the Department of Social Services and a Level II review completed by the division to determine eligibility when an individual with a diagnosis of developmental disability as defined in SDCL 27B-1-18 applies to reside in a Medicaid-certified swing bed or nursing facility;~~

~~—— (5) "Resident review," a review to determine if residence in a nursing facility remains appropriate and if specialized services are needed;~~

~~—— (6) "Specialized services," the services specified by the state for the individual which, combined with the services provided by the nursing facility or other service providers, results in active treatment;~~

~~—— (7) "Swing bed," as defined in subdivision 67:45:01:01(2) Repealed.~~

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~———— **General Authority:** SDCL 27B-2-26(8).~~

~~———— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:02. Level I screening. ~~The Department of Social Services shall conduct a Level I screening that identifies each individual who is seeking a Medicaid certified swing bed or nursing facility services who may have an intellectual disability or developmental disability.~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~General Authority:~~ SDCL 27B-2-26(8).

~~Law Implemented:~~ SDCL 27B-2-26.

46:11:13:03. Level II review exemptions. ~~An individual is exempt from a Level II review if at least one of the following occurs:~~

~~—— (1) The diagnosis of an intellectual disability or developmental disability is unsubstantiated;~~

~~—— (2) An 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) An individual is transferred from a Medicaid certified swing bed or nursing facility to another and a PASRR has previously been completed;~~

~~—— (4) The physician identifies the need for convalescent care following hospitalization for a duration of less than 100 days; or~~

~~—— (5) A physician ordered respite stay of 30 days or less.~~

~~—— The Department of Social Services shall complete a Level I screening form to notify appropriate parties of the determination of the exemption Repealed.~~

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:04. Exempt hospital discharge. ~~An individual is exempt from a PASRR following a hospital discharge if the following conditions are met:~~

~~—— (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 same condition for which care was received 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 30 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 30 days of nursing care, the facility shall request a PASRR prior to the expiration of that 30 days Repealed.~~

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:05. Categorical determinations for Level I.~~A categorical determination is made by the Department of Social Services. A categorical determination may warrant Medicaid certified swing bed or nursing facility services but does not warrant specialized services. A situation known as a categorical situation is one of the following:~~

- ~~—— (1) A terminal illness diagnosis, determined by a physician or hospice involvement that includes a life expectancy of six months or less;~~
- ~~—— (2) A severe physical illness which has resulted in a coma or ventilator dependence;~~
- ~~—— (3) The age of the 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 of Social Services shall complete a Level I screening form. A copy of the form shall be sent to the division and any appropriate facility.~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:06. Level II review. ~~The division shall conduct a Level II review that consists of determining appropriateness of Medicaid certified swing bed or nursing facility services and specialized 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 specialized services is made Repealed.~~

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~———— **General Authority:** SDCL 27B-2-26(8).~~

~~———— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:07. 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 developmental 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;~~
- ~~———— (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 must 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: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~———**General Authority:** SDCL 27B-2-26(8).~~

~~———**Law Implemented:** SDCL 27B-2-26.~~

46:11:13:08. Determination of services. ~~The division 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 division determines that an individual requires a Medicaid-certified swing bed or nursing facility services, the facility may admit or retain the individual. If the division determines that an individual does not require Medicaid-certified swing bed or nursing facility services, the individual may not be admitted.~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:09. Determination of specialized services. ~~If the division determines that the individual requires Medicaid certified swing bed or nursing facility services, the division shall also determine whether the individual may benefit from specialized services as defined in subdivision 46:11:13:01(6).~~

~~———— If the division determines that an individual requires both Medicaid certified swing bed or nursing facility services and specialized services, the nursing facility may admit or retain the individual and the state shall provide or arrange for the provision of the specialized services needed by the individual in the Medicaid certified swing bed or nursing facility.~~

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

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~———— **General Authority:** SDCL 27B-2-26(8).~~

~~———— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:10. Timeliness of determination of Level II review. ~~The division 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 the information required in § 46:11:13:07~~
Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~General Authority: SDCL 27B-2-26(8).~~

~~Law Implemented: SDCL 27B-2-26.~~

46:11:13:11. Notification of Level II determination. ~~The division shall issue a written notification of the Level II review determination. The notification shall include:~~

- ~~—— (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.~~

~~A copy of this notification shall be sent to the individual the Level II review was completed on, 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: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:12. Determination may not be countermanded.~~—A—Level—H~~
determination made by the division may not be countermanded by the Department of Social
Services Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30,
2014.

~~——General Authority: SDCL 27B-2-26(8).~~

~~——Law Implemented: SDCL 27B-2-26.~~

46:11:13:13. 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 orally or in writing. Any costs associated with legal counsel obtained to represent the individual are not the responsibility of the department~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~———— **General Authority:** SDCL 27B-2-26(8).~~

~~———— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:14. Length of stay. ~~For the purpose of establishing length of stay in a Medicaid certified swing bed or nursing facility, the 30 months of continuous residence in a Medicaid certified swing bed or 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~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:15. Individuals not requiring swing bed or nursing facility services but requiring specialized services -- 30 month determination.

~~—————(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 specialized services, the Department of Social Services and the Department of Human Services, in consultation with the individual's family or legal representative and caregivers, shall:~~

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

~~—————(b) Inform the individual of the institutional and noninstitutional 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 nursing facility, including the effect on readmission to the nursing facility; and~~

~~—————(d) Provide for, or arrange for the provision of, specialized services for the intellectual disability or developmental disability; or~~

~~—————(2) If the individual has been residing in a 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 specialized services, the Department of Social Services and Department of Human Services, 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 for, or arrange for the provision of, specialized services for the intellectual disability or developmental disability Repealed.~~

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229 effective June 30, 2014.

~~—————**General Authority:** SDCL 27B-2-26(8).~~

~~—————**Law Implemented:** SDCL 27B-2-26.~~

46:11:13:16. 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, is not "self-limiting" (for decline only);~~

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

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

~~—— If a significant change occurs for an individual known or suspected to have an intellectual disability or a condition related to an intellectual disability, the Medicaid certified swing bed or nursing facility shall make a referral to the division for a possible Level II review. The referral shall occur as soon as evidence of a significant change is identified Repealed.~~

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:17. New admission and readmission.~~A new admission occurs when an individual is admitted to any Medicaid-certified swing bed or nursing facility for the first time or when an admission does not qualify as a readmission. With the exception of certain hospital discharges described in § 46:11:13:04, new admissions are subject to 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 was transferred from the nursing facility for the purpose of receiving medical care. This type of readmission does not require a PASRR.~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~———— **General Authority:** SDCL 27B-2-26(8).~~

~~———— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:18. Interfacility transfers. ~~An interfacility transfer occurs when the individual is transferred from one Medicaid-certified swing bed or nursing facility to another, with or without an intervening hospital stay. Interfacility transfers are not subject to PASRR. 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 nursing facility is responsible for ensuring that copies of the individual's PASRR findings accompany the individual.~~ Repealed.

Source: 40 SDR 102, effective December 3, 2013; 40 SDR 229, effective June 30, 2014.

~~—— **General Authority:** SDCL 27B-2-26(8).~~

~~—— **Law Implemented:** SDCL 27B-2-26.~~

46:11:13:19. Out-of-state placement. ~~The state where the individual is a state resident or would be a state resident at the time Medicaid eligibility is obtained shall make the required PASRR determination~~ Repealed.

Source: 40 SDR 229, effective June 30, 2014.

——— ~~**General Authority:** SDCL 27B-2-26(8).~~

——— ~~**Law Implemented:** SDCL 27B-2-26.~~