

## PASRR Screen Requirements

Effective Date: 11/4/09

Pursuant to the authority vested in the State Hospital Review and Planning Council and the Commissioner of Health by section 2803 (2) of the Public Health Law, section 400.12 of Part 400 of Article 3 of Subchapter A of Chapter V of Title 10 (Health) of the New York State Code of Rules and Regulations is hereby amended as follows:

### § 400.12 [Forms (criteria for level of care and SCREEN)] Level of care criteria

(a) *New York State criteria for level of care.* (1) Minimum qualification for residential health care facility care: The patient is qualified for residential health care facility care [as indicated by] and such care is consistent with all applicable federal requirements as documented on the patient screening instrument (SCREEN) [referral guidelines (SCREEN Parts IIB and IIIC)].

(2) Skilled nursing facility care. Patients in the following resource utilization groups meet the requirements for skilled nursing facility level of care [(see Appendix 13-A, *infra*, for resource utilization groups)]:

Special Care A

Special Care B

Heavy Rehabilitation A

Heavy Rehabilitation B

Clinically Complex A

Clinically Complex B

Clinically Complex C

Clinically Complex D

Severe Behavioral A

Severe Behavioral B

Severe Behavioral C

Reduced Physical Functioning A

Reduced Physical Functioning B

Reduced Physical Functioning C

Reduced Physical Functioning D

Reduced Physical Functioning E

[In order for a skilled nursing facility to admit or retain patients in the following resource utilization groups, the case must be referred to a physician member of the facility's utilization review agent to override the level of care criteria and determine the appropriate level of care in accordance with 10 NYCRR 416.9(a) and (b).]

[Clinically Complex A]

[Severe Behavioral A]

[Reduced Physical Functioning A]

[Reduced Physical Functioning B]

[(3) Health-related facility care. Patients in the following resource utilization groups meet the requirements for health-related facility level of care:]

[Clinically Complex A]

[Severe Behavioral A]

[Reduced Physical Functioning A]

[Reduced Physical Functioning B]

[For a health-related facility to admit or retain a specific patient in one of the following resources utilization groups, not designated as appropriate for health-related facility care, the case must be referred to a physician member of the facility's utilization review agent to override the level of care criteria and determine the appropriate level of care in accordance with 10 NYCRR 421.13(a) and (b):]

[Special Care A]

[Special Care B]

[Heavy Rehabilitation A]

[Heavy Rehabilitation B]

[Clinically Complex B]

[Clinically Complex C]

[Clinically Complex D]

[Severe Behavioral B]

[Severe Behavioral C]

[Reduced Physical Functioning C]

[Reduced Physical Functioning D]

[Reduced Physical Functioning E]

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SCREEN Form DOH 695 (4/93) is removed in its entirety and replaced with the following language:

The SCREEN Form DOH 695 shall be maintained by the department, in such form and

format as prescribed by the department in compliance with federal law, and shall be accessible at: <http://www.health.state.ny.us/forms/>

## **REGULATORY IMPACT STATEMENT**

### **Statutory Authority:**

The statutory authority for the promulgation of these regulations is contained in section of 2803 (2) of the Public Health Law (PHL) which authorizes the State Hospital Review and Planning Council to adopt regulations, subject to the approval of the commissioner. Such regulations implement the purpose and provisions of Article 28 of the Public Health Law to establish minimum standards governing the operation of health care facilities and to establish standards and procedures which federal law and regulation require for nursing homes to qualify as providers pursuant to titles XVIII and XIX of the federal social security act.

### **Legislative Objectives:**

The legislative objective of Article 28 of the Public Health Law includes the protection and promotion of the health of the residents of the state by assuring the efficient provision of health services of the highest quality. An additional objective of PHL § 2803(2)(a)(v) is to ensure that medical facilities provide quality services that meet federal minimum standards.

### **Needs and Benefits:**

The federal Omnibus Budget Reconciliation Act of 1987 (OBRA 87) mandated Pre-Admission Screening Resident Review (PASRR) for all individuals applying to certified Medicaid Residential Health Care Facilities to screen for serious mental illness (MI) and/or mental retardation/developmental disability (MR/DD). The legislative intent was to assure that persons with serious mental illnesses, mental retardation or developmental

disabilities who require residential health facility care are appropriately placed to provide for their treatment needs. Each state is responsible for administering its own PASRR program.

The New York State Department of Health PASRR process implements the requirements of CFR 42, Part 483, Subpart C using the SCREEN form referenced in 10 NYCRR Section 400.12. The SCREEN, Department of Health (DOH) form 695 4/93, is used to carry out the initial assessment and identification of individuals with suspected mental illness, mental retardation, and developmental disabilities.

The existence of the SCREEN, DOH form 695 4/93, in regulation means that any time the form is updated a regulatory action is required to remove the old form and insert the new. This is a time consuming process that utilizes State resources and delays implementation of revisions which keep the PASRR process in alignment with federal requirements.

The existing SCREEN form will be removed from the regulation and replaced with language identifying where the most current version of the SCREEN form is located. Outdated language and references to regulations that have expired will be removed.

**Costs:**

**Costs to Regulated Parties:**

Implementation and continued compliance with 400.12 will not be affected by the removal of the SCREEN form DOH 695 4/93. The form is currently, and will continue to be, available to users through the DOH Distribution Center. In addition, users may

choose to access the form electronically through the DOH website, and the HPN (Health Provider Network).

Costs to the agency and State will be minimized in the future due to an anticipated reduction in utilization of staff resources to promulgate regulatory action when the form is updated. The agency may realize savings by avoiding the potential of penalties related to use of a process that is not in full alignment with federal requirement.

The department will incur minimal cost to post and maintain the form electronically.

However, it is anticipated that the cost will be absorbed by resources already allocated to the existing electronic structure.

**Local Government Mandates:**

This amended regulation does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district, or other special district.

**Paperwork:**

No additional paperwork burden will be imposed upon the department, state, or regulated parties. Users opting to print their own forms from the electronic version will incur the cost of supplies and paper, which will result in a savings to the department.

**Duplication:**

This regulation does not duplicate any other federal or state regulation.

**Alternatives:**

The State must, by law, implement the federal requirements for preadmission screening and resident review. The benefit of having the most accurate SCREEN form on the website is significant, i.e. accessibility to the public of the most convenient format to document compliance with federal requirements.

**Federal Standards:**

This amendment implements, but does not exceed any minimum standards of the federal government.

**Compliance Schedule:**

Federal regulations are now in effect, and this amended regulation will be effective at the earliest date possible, consistent with the State Administrative Procedure Act requirements.

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## **REGULATORY FLEXIBILITY ANALYSIS**

No regulatory flexibility analysis is required. The proposed amendments do not impose an adverse economic impact on small businesses, nor do they impose additional recordkeeping, reporting or other compliance requirements.

## **RURAL AREA FLEXIBILITY ANALYSIS**

The proposed rule will not impose an adverse economic impact on rural facilities as defined within Articles 28, 36, or 40 of the Public Health Law, nor will it impose any additional recordkeeping, reporting and other compliance requirements.

## **JOB IMPACT STATEMENT**

The department has determined that the proposed revision will have no impact on jobs and employment opportunities, other than those associated with retraining requirements for the use of the revised SCREEN form. Initial training is currently required of all individuals that will be using the SCREEN form, and is not considered an additional burden associated with the proposed revisions. Training to update individuals certified to use the old SCREEN form will be provided by the Department's contractor, and is an expected consequence of any updates to the SCREEN form. Individuals that do not obtain training on the updated SCREEN form will lose their certification privileges and therefore, will not be qualified to perform SCREEN assessments.