

## CHAPTER 22

### Determination of Nursing Facility Level of Care

**Section 1. Authority.** This Chapter is promulgated by the Department of Health pursuant to the Wyoming Medical Assistance and Services Act at Wyoming Statutes §§ 42-4-104(a)(iv).

**Section 2. Purpose and Applicability.**

(a) The methods and standards established in this Chapter shall be used to determine whether an individual requires, or continues to require the level of care provided, in a nursing facility or in consideration of eligibility for applicable home and community-based waiver programs.

(b) The Department may issue manuals and bulletins to interpret the provisions of this Chapter. Such manuals and bulletins shall be consistent with and reflect the policies contained in this Chapter. The provisions contained in manuals or bulletins shall clarify information provided in this rule but shall not override or supersede it.

**Section 3. Definitions.** Except as otherwise specified in Chapter 1 or as defined herein, the terminology used in this Chapter is the standard terminology and has the standard meaning used in health care, Medicaid, and Medicare.

(a) “Nursing Facility Level of Care Determination.” A determination as to whether an individual requires or continues to require the level of care provided in a nursing facility.

(b) “Level of Care Assessment.” An assessment of an individual’s current functional status used by the Department in making nursing facility level of care determinations.

(c) “Level of Care Assessor.” A registered nurse licensed to practice in the State of Wyoming and qualified by the Department or its agent as having successfully completed all requisite education and training to conduct a level of care assessment.

**Section 4. General Provisions.**

(a) A determination indicating a need for nursing facility level of care shall not constitute a determination of eligibility or a guarantee of reimbursement for Wyoming Medicaid services. Individuals shall meet any additional eligibility criteria for the applicable Wyoming Medicaid services and programs.

(b) The level of care assessment conducted pursuant to this Chapter is not intended to serve as an instrument for the identification, diagnosis, or treatment of any disease or medical condition.

(c) The Department is the sole entity authorized to make nursing facility level of care determinations for the purposes established by this Chapter.

(d) The Department shall establish the procedures, instruments, methods, and criteria by which a level of care assessment is conducted.

(i) The Department shall make nursing facility level of care determinations based solely on the results of a level of care assessment conducted by a qualified level of care assessor.

(ii) The Department shall make nursing facility level of care determinations and provide notification in accordance with its established timelines and procedures.

**Section 5. Requests for Determination of Nursing Facility Level of Care.**

(a) Any individual may request a nursing facility level of care determination on his or her own behalf.

(b) A guardian or legal representative may request a nursing facility level of care determination on behalf of an individual for whom legal decision-making authority has been conferred.

(c) Employees of a nursing facility, hospital, or any other such healthcare or social services provider may request a nursing facility level of care determination on behalf of any individual for whom that organization has the responsibility for the provision or coordination of healthcare services.

(d) The Department shall approve only those requests for a nursing facility level of care determination which meet all of the following criteria:

(i) The request is complete and is submitted in accordance with the Department's established procedures;

(ii) The individual to be assessed is a resident of, or intends to reside in, the State of Wyoming;

(iii) The individual to be assessed demonstrates a reasonable indication of need for long-term care services as determined by any initial screening criteria established by the Department;

(iv) The individual to be assessed is currently receiving, or has expressed interest in, a long-term care service or program which requires a nursing facility level of care determination; and

(v) The individual to be assessed is a current Wyoming Medicaid recipient, has submitted an application for Wyoming Medicaid, or has been identified by a Preadmission Screening and Resident Review (PASRR) Level I Screening to require a PASRR Level II screening pursuant to Chapter 19.

**Section 6. Requests for Reconsideration and Administrative Hearings.**

(a) The individual for whom the determination was made, or his or her guardian or legal representative, if applicable, may request reconsideration of the Department's nursing facility level of care determination.

(i) Reconsideration requests are an opportunity for alternative dispute resolution, are not a prerequisite to request an administrative hearing, and shall not impede the individual's right to request an administrative hearing in accordance with Chapter 4.

(b) The Department shall approve only those reconsideration requests which are submitted in writing within twenty (20) business days of the notice of adverse action and in accordance with the Department's established procedures.

(c) For approved reconsideration requests, the Department or its agent shall review the level of care assessment results to determine whether its procedures, instruments, methods, and criteria were applied appropriately, and the Department shall:

(i) Require a second level of care assessment be conducted by a different level of care assessor; or

(ii) Affirm the Department's nursing facility level of care determination and provide the individual a notice of adverse action and the right to request an administrative hearing in accordance with Chapter 4.

(d) When a second level of care assessment is required, the Department shall make a reconsideration determination based solely upon the results of the second level of care assessment.

(e) In accordance with Chapter 4, the Department shall provide notice of adverse action and the right to request an administrative hearing to any individual whose Medicaid service coverage or eligibility is denied, reduced, terminated, or suspended as a result of its reconsideration determination.