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**Social and Rehabilitation
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**MEDICAL ASSISTANCE
PROGRAM**

**Inpatient Psychiatric Hospital Services
for Individuals Under Age 21**

HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service [45 CFR Parts 249 and 250]

MEDICAL ASSISTANCE PROGRAM

Inpatient Psychiatric Hospital Services for Individuals Under Age 21

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement section 1905(a)(16) of the Social Security Act which was added by section 299B of Pub. L. 92-603, the Social Security Amendments of 1972. Under this provision States may provide inpatient psychiatric hospital services to individuals under age 21 as an optional item of medical care in their State Medicaid plans. Accordingly, the proposed regulations provide that:

(1) Such services may be made available to individuals who have not attained age 21, or to those up to age 22 who were receiving these services immediately prior to attaining age 21;

(2) An institution participating in the program must be a psychiatric hospital accredited by the Joint Commission on Accreditation of Hospitals.

(3) With respect to individuals admitted after the effective date of the final regulations, an appropriately qualified team, including a physician, must determine that the individual needs inpatient services because community resources for ambulatory care are not available.

(4) "Active treatment," a necessary element of inpatient psychiatric services, is defined as the implementation of a professionally developed individual plan of care which sets forth treatment objectives, activities, and therapies enabling the individual's functioning to improve to the point that institutional care is no longer necessary. The plan must be developed and implemented within 14 days after admission, and reviewed every 30 days by an interdisciplinary team to determine the effectiveness of services in relation to the individual's adjustment as an inpatient;

(5) The interdisciplinary team developing and reviewing the plan of care must be composed of physicians and other persons whose experience and training enable them to assess the patients' requirements and render appropriate services. They must either be employed by the institution or provide services to patients in such a facility;

(6) States must meet the maintenance of fiscal effort requirements in order to claim Federal matching in expenditures for these services.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013, on or

before April 23, 1975. Comments received will be available for public inspection in Room 5326 of the Department's offices at 301 C Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-245-0950).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: March 7, 1975.

JAMES S. DWIGHT, JR.,
Administrator, Social and
Rehabilitation Service.

Approved: March 13, 1975.

CASPAR W. WEINBERGER,
Secretary.

Chapter II, Title 45, of the Code of Federal Regulations is amended as set forth below:

1. Section 249.10 of Part 249 is amended by adding a new subparagraph (16) to paragraph (b) and amending paragraph (c), as set forth below:

§ 249.10 Amount, duration, and scope of medical assistance.

(b) Federal financial participation.

(16) Inpatient psychiatric hospital services for individuals under the age of 21. For purposes of this subparagraph, "inpatient psychiatric hospital services" include those items and services provided under the direction of a physician which meet the following conditions:

(i) In the case of any individual, such services are provided:

(a) Prior to the date such individual attains age 21, or

(b) In the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, prior to

(1) The date such individual no longer requires such services, or

(2) If earlier, the date such individual attains age 22.

(ii) Such services are provided by an institution which is a psychiatric hospital accredited by the Joint Commission on Accreditation of Hospitals.

(iii) In the case of an individual (a) Who, after the effective date of these regulations, is admitted to a psychiatric hospital in accordance with § 250.23 of this chapter and

(b) For whom claims are made from the date of admission, such services are available only after a team certifies, after determining that available alternative local community resources for ambulatory care do not meet the treatment needs of the individual, (1) that the proper treatment of the individual's psychiatric condition requires such services on an inpatient basis under the direction of a physician and (2) that such services can be reasonably expected to improve the individual's condition to the extent such services will be unnecessary. The team must include competence in diagnosis and treatment of mental illness, and have knowledge of the individual

patient situation. At least one member must be a physician. In the case of an emergency admission, such services may be provided upon certification by a physician at the institution that a screening conducted by him at the time of such admission indicated such inpatient services were necessary.

(iv) In the case of any individual, such services involve active treatment.

(a) "Active treatment" for purposes of this paragraph (b)(16) means implementation and administration of a professionally developed and supervised individual plan of care, which plan shall be developed and implemented no later than 14 days after admission to the institution. The active treatment must be reasonably expected to improve the individual's condition to the extent that inpatient care is no longer necessary. The plan of care shall be designed to achieve deinstitutionalization of the individual at the earliest possible time.

(b) "Individual plan of care" means a written plan, developed for each patient in accordance with § 250.23(a)(1) of this chapter for the purpose of improving the individual's condition to the extent that inpatient care is no longer necessary. The plan shall set forth treatment objectives and prescribe an integrated program of appropriate therapies, activities, and experiences designed to meet these objectives. It shall be formulated in consultation with the child and parents, legal guardians, or others to whose care or custody the individual will be released following discharge. The plan shall be based upon a diagnostic evaluation which includes examination of the medical, psychological, social and developmental aspects of the patient's situation and reflects the need for inpatient psychiatric hospital care which can be reasonably expected to improve the patient's condition to the extent that such care will become unnecessary. It shall include, at an appropriate time, post-hospitalization plans and coordination of inpatient services with partial hospitalization plans and appropriate related services in the patient's community, to ensure continuity of care with his family, school and community, upon discharge. Such plan shall be reviewed every 30 days by an interdisciplinary team (see subdivision (v)) for determinations that the services provided are or were required on an inpatient basis and for recommendations as to necessary adjustments in the plan as indicated by the individual's overall adjustment as an inpatient.

(c) "Professionally developed" means the plan is formulated by an interdisciplinary team of physicians and other personnel who are employed by or render services to patients in the institution and who, by virtue of education and experience, have the capability of assessing the patient's immediate and long range therapeutic requirements, developmental priorities, personal strengths and liabilities, and potential resources of the patient's family; of setting treatment objectives; and of prescribing the therapeutic modalities through which these

objectives are to be achieved, and, therefore, are qualified to make determinations with respect to mental health conditions and the treatment thereof.

(v) For purposes of subdivision (iv) of this subparagraph, the interdisciplinary team shall include at least:

(a) (1) A Board eligible or Board certified psychiatrist, or

(2) A clinical psychologist who holds a doctoral degree and a physician licensed to practice medicine or osteopathy, or

(3) A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a psychologist who holds a master's degree in clinical psychology or who has attained recognition of competency through State certification by the State psychological association; and

(b) One of the following (deemed to be other professionals qualified to make determinations with respect to mental health conditions and the treatment thereof):

(1) A psychiatric social worker;

(2) A registered nurse who has specialized training in or one year of experience in treating the mentally ill;

(3) An occupational therapist who, where applicable, is licensed in the State, and who has specialized training or one year of experience in treating the mentally ill; or

(4) A psychologist as defined in subdivision (v) (a) (3) of this subparagraph.

(c) *Limitations.* (1) Federal financial participation in expenditures for medical and remedial care and services listed in paragraph (b) of this section is not available with respect to any individual who is an inmate of a public institution (except as a patient in a medical institution or as a resident of an intermediate care facility), or any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases (except for an individual under age 21 who is receiving inpatient psychiatric hospital services pursuant to paragraph (b) (16) of this section).

(4) With respect to expenditures in any calendar quarter, Federal financial participation for inpatient psychiatric hospital services for individuals under the age of 21 is available only to the extent that the total expenditures for such inpatient services included under paragraph (b) (16) of this section for individuals receiving assistance under the State plan, and of active psychiatric care and treatment provided on an outpatient basis to mentally ill individuals under age 21 receiving assistance under the State plan in the current quarter exceeds the sum of:

(1) The product of the total number of eligible individuals receiving such inpatient services in the current quarter times the average quarterly per capita non-Federal expenditures for the base year, and

(ii) The average non-Federal quarterly expenditures for the base year for outpatient psychiatric hospital services for eligible individuals under the age of 21. Federal financial participation will be at 100 percent of such increase in expenditures over the base year period but may not exceed the Federal medical assistance percentage times the expenditures for inpatient psychiatric hospital services for individuals under the age of 21 included under paragraph (b) (16) of this section. For purposes of this subparagraph:

(a) The base year shall be the 4-quarter period ending December 31, 1971;

(b) The per capita per quarter non-Federal expenditures for the base year and the expenditures for each subsequent year in which claims are made are those expenditures for inpatient care and services in psychiatric hospitals determined in accordance with reimbursement principles applied under title XVIII-A of the Act;

(c) The number of eligible individuals receiving inpatient psychiatric hospital services in the current quarter means the number of different persons receiving care for the whole quarter plus the full quarter equivalent number for persons receiving less than a full quarter's care. In determining the per capita expenditures for the base year, similar methods of computation shall be used;

(d) Non-Federal expenditures means the total amount of the funds expended by the State and the political subdivisions thereof, excluding any Federal funds received directly or indirectly;

(e) Expenditures for the current calendar quarter excludes Federal funds received directly or indirectly from any source other than title XIX or section 1115 of the Social Security Act;

(f) As a basis for determining the proper amount of Federal payments, each participating State must submit estimated and actual cost data and other information necessary for this purpose in such form and at such times as are specified in regulations in this chapter and Social and Rehabilitation Service guidelines; and

(g) the Single State agency shall have on file adequate records to substantiate compliance with the requirements of this subparagraph and to assure that all necessary adjustments have been made.

2. Section 250.23 of Part 250 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c) as set forth below:

§ 250.23 Periodic medical review and medical inspections in skilled nursing facilities and institutions for mental diseases.

(a) *State plan requirements; medical review.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide, with respect to patients eligible under the State plan who are admitted to a skilled nursing facility or who make application while in such a

facility, for a medical review (including medical evaluation) of the need for care in such a facility, a written plan of care and, where applicable, a plan of rehabilitation; and if the State plan includes medical assistance in behalf of individuals 65 years of age or older, or individuals under age 21, who are patients in institutions for mental diseases, provide, with respect to patients eligible under the State plan who are admitted to a mental hospital or who make application while in such a hospital, for a medical review (including medical evaluation) of the need for care in such a hospital, and a written plan of care. Such a review and plans would be made by the patient's attending physician with respect to care in skilled nursing facilities, and by the attending physician or staff physician with respect to care in mental hospitals, for individuals age 65 or over. In the case of individuals under age 21 who are admitted to mental hospitals, the review must be made by a team in accordance with § 249.10(b) (16) (iii) (b), and the plan of care must be made by a team as specified in § 249.10(b) (16) (v). Provisions required by this subparagraph shall include descriptions of methods and procedures to be followed in each case which assure that prior to admission or prior to authorization of payments, as may be appropriate:

(1) Each patient receives a complete medical evaluation which includes diagnoses, summary of present medical findings, medical history, mental and physical functional capacity, prognosis and an explicit recommendation by the physician with respect to admission to, or, in the case of persons who make application while inpatients in a skilled nursing facility or mental hospital, continued care in, such skilled nursing facility or mental hospital;

(ii) The plan of care includes orders for medications, treatments, restorative services, diet, special procedures recommended for the health and safety of the patient, activities, and plans for continuing care and discharge;

(iii) In the case of skilled nursing facility patients, written reports of the evaluation and the written plan of care are delivered to the facility and entered in the patient's record at the time of admission or, in the case of patients already in the facility, immediately upon completion; and

(iv) In the case of patients in mental hospitals or in skilled nursing facilities which are in institutions for mental diseases, the evaluation also includes psychiatric and social evaluations which are entered in the patient's record at the time of admission or immediately upon completion;

(2) Provide for periodic inspections to be made in all skilled nursing facilities (and, if the State plan includes medical assistance for individuals 65 years of age or older or individuals under age 21, who are patients in institutions for mental diseases, in each such institution) caring for patients under the plan by one or more medical review teams which shall