

## **249J.11 Nursing facility level of care determination for facility-based and community-based services.**

The department shall amend the medical assistance state plan to provide for all of the following:

1. That nursing facility level of care services under the medical assistance program shall be available to an individual admitted to a nursing facility on or after July 1, 2005, who meets eligibility criteria for the medical assistance program pursuant to section 249A.3, if the individual also meets any of the following criteria:

*a.* Based upon the minimum data set, the individual requires limited assistance, extensive assistance, or has total dependence on assistance, provided by the physical assistance of one or more persons, with three or more activities of daily living as defined by the minimum data set, section G, entitled "physical functioning and structural problems".

*b.* Based on the minimum data set, the individual requires the establishment of a safe, secure environment due to moderate or severe impairment of cognitive skills for daily decision making.

*c.* The individual has established a dependency requiring residency in a medical institution for more than one year.

2. That an individual admitted to a nursing facility prior to July 1, 2005, and an individual applying for home and community-based services waiver services at the nursing facility level of care on or after July 1, 2005, who meets the eligibility criteria for the medical assistance program pursuant to section 249A.3, shall also meet any of the following criteria:

*a.* Based on the minimum data set, the individual requires supervision, or limited assistance, provided on a daily basis by the physical assistance of at least one person, for dressing and personal hygiene activities of daily living as defined by the minimum data set, section G, entitled "physical functioning and structural problems".

*b.* Based on the minimum data set, the individual requires the establishment of a safe, secure environment due to modified independence or moderate impairment of cognitive skills for daily decision making.

3. That, beginning July 1, 2005, if nursing facility level of care is determined to be medically necessary for an individual and the individual meets the nursing facility level of care requirements for home and community-based services waiver services under subsection 2, but appropriate home and community-based services are not available to the individual in the individual's community at the time of the determination or the provision of available home and community-based services to meet the skilled care requirements of the individual is not cost-effective, the criteria for admission of the individual to a nursing facility for nursing facility level of care services shall be the criteria in effect on June 30, 2005. The department of human services shall establish the standard for determining cost-effectiveness of home and community-based services under this subsection.

4. The department shall develop a process to allow individuals identified under subsection 3 to be served under the home and community-based services waiver at such time as appropriate home and community-based services become available in the individual's community.

2005 Acts, ch 167, §11, 66

Federal approval of state planning amendments related to nursing home level of care pending at time of codification of this section; section contingent upon federal approval; 2005 Acts, ch 167, §66