

Technical Assistance Guidance on Supportive Living Program Access for Individuals with Serious Mental Illness or Developmental Disability

The purpose of this Guidance is to clarify State policy and general procedures for appropriate access of persons with Serious Mental Illness (SMI) and Developmental Disability (DD) to the Supportive Living Program (SLP).

Supportive Living Program Description

The SLP provides an affordable assisted living model offering limited personal and health services integrated within apartment-style housing. The Program operates under the authority of a 1915 (c) Home and Community Based Services (HCBS) waiver of the Social Security Act. The SLP Waiver has two Target Populations, Elderly (65 and older) and Persons with Physical Disabilities (22–64), served in two respective types of SLP. The aim of the program is to preserve individual privacy and autonomy, while supporting health and wellness through a combination of medical and non-medical services. The SLP serves persons who would otherwise require Nursing Facility (NF) care, but whose individual needs can be met by the Program. The Department of Healthcare and Family Services (HFS) is the operating agency for the SLP Waiver and also has oversight and management responsibilities for the Program as the State Medicaid Authority.

An SLP provider must provide the following services and supports:

- intermittent nursing care
- social/recreational programming
- health promotion and exercise programs
- medication oversight
- ancillary services
- 24-hour response/security
- emergency call light
- daily wellbeing check
- personal care
- laundry
- housekeeping
- maintenance
- meals and snacks

Services in any other 1915 (c) HCBS Waivers are precluded while served in the SLP Waiver. However, SLP Waiver participants can receive medically necessary non-waiver Medicaid State Plan services for which they are eligible. Some Medicaid State Plan services will have utilization criteria that may preclude receipt while in a program of SLP level of service intensity (e.g. 24 hour on-site staffing). Individuals may also arrange for privately procured and funded services.

SLP providers are not only the landlords of the SLP apartment-style housing, but also are direct providers of Medicaid HCBS services and have substantial responsibilities for assuring the health and welfare of SLP Waiver recipients. The SLP rule prohibits providers from admission of individuals whose needs cannot be met and/or whose admission would seriously jeopardize the individual's health and welfare or those of other residents. The SLP Waiver and rule also require providers to report a range of critical incidents posing actual or potential harm to Medicaid beneficiaries in the program. HFS maintains oversight of the overall Waiver operation, as well as, SLP rule compliance, service provision, and quality assurance activities.

Further differentiating SLP from mainstream rental housing are several critical features of SLP, such as provider organization of social, recreational, and communal aspects of the program; residents' utilization of the more extensive common areas of the buildings; and the option of having meals in communal dining rooms. However, SLP providers also have a contractual landlord-tenant relationship with SLP Waiver recipients regarding their apartments and must comply with local landlord-tenant laws and applicable non-discrimination laws. The SLP providers must endeavor to fulfill obligations as both a Medicaid direct service provider and housing provider.

HCBS Waivers require the State to specify the Target Populations that will be served in the program. The SLP Waiver's services, staffing, training, and program design address the needs of the specified Target Populations. The SLP model was not designed around the needs of the SMI or the DD populations, nor was included as a Target Population in Illinois' federally approved SLP Waiver. It should also be noted that SLP is not a referral option to address needs related to SMI or DD within either the SMI or DD service systems. Nevertheless, there are individuals with SMI or Mild DD, and also physical disabilities or aged 65 and older who qualify for, need, prefer, would benefit from, and can be effectively served in the Program. The presence of SMI or DD does not automatically preclude SLP admission for an individual with the activities of daily living needs for which SLP was designed.

Determination of Waiver Eligibility for SLP

SLP Waiver applicants must meet Medicaid financial eligibility standards. In addition, SLP applicants must also meet criteria for a Nursing Facility Level of Care (NF LOC). In accordance with the approved SLP Waiver, the functional component of eligibility is determined either by Care Coordination Unit (CCU) agencies designated by the Department on Aging or by the DHS Division of Rehabilitation Services, using the Determination of Need (DON) assessment. Individuals residing in NFs are deemed as meeting NF LOC by their NF residence and do not require a new DON assessment to transfer to SLP.

Individuals with indications of SMI or DD must also be screened for confirmation of the SMI or DD and, if confirmed, receive a specialized SLP assessment as described in the next section. This must occur before transfer from the NF to the SLP, although the individual does not require determination of functional eligibility for the NF level of Care. In most cases, the CCU or DRS staff will identify the need for this screening and make the appropriate referral contact with the SMI or DD screening agent. In instances of individuals who will be transferring directly from the NF, either the discharging NF or the potential receiving SLP provider will have to request the SMI or DD screening. The request for the SMI and/or DD screening should be based on documentation or strong indications of SMI or DD from the NF medical record, medical history, or collateral sources. The SLP provider that is considering admission will already be engaged in its own direct assessment of the individual, since no new NF LOC determination is required for basic SLP Waiver eligibility. Requests for the SMI and DD screening should not involve excessively broad or deep exploration of records to find any small potential indication of SMI or DD diagnosis by the NF or SLP. Neither should a referral for the SMI or DD screening lead to conclusions about the appropriateness of the applicant's admission by the SLP provider at the point of this screening request.

Screening and Special Assessment for Individuals with SMI or DD

Discrimination based on the presence or suspicion of SMI or DD diagnosis or disability is clearly prohibited in admissions to the SLP. However, significant needs and risks related to an individual SLP applicant's SMI or DD are legitimately considered in the admission approval process, as is the case with significant needs and risks arising from medical/physical diagnoses and disabilities. The SLP rule includes procedures to protect individual rights when involuntary discharge of admitted individuals is sought by the provider, including discharges sought based on provider assertion of inability to meet the person's current needs and risks. Contractual lease provisions protect the rights of admitted individuals as well. Admission decisions must be made with due attention to capacity to effectively address individual needs, as well as care to avoid all forms of discrimination. To ensure non-discriminatory and appropriate access to SLP, an independent specialized assessment is conducted by appropriate State-designated assessors for applicants with SMI or DD.

The state-designated assessors who carry out the federally mandated NF Pre-Admission Screening and Resident Review (PASRR) processes for the DHS Division of Mental Health (DMH) and for the Division of Developmental Disabilities (DDD) assess the suitability of the SLP setting and services in relation to individual needs and risks related to the SMI or the need for active DD treatment. For DMH, these entities are MH PASRR agents. For DDD, PASRR is part of the function of Independent Service Coordination (ISC) agencies. Referrals to these agencies will result in an initial screening to determine if SMI or DD is present. Not all screens will confirm

SMI or DD requiring the specialized assessment and will be returned to the SLP provider and applicant indicating that result.

The MH PASRR or DD ISC assessment results in a determination of the likely appropriateness of the SLP setting and services to meet the individual's needs and, if appropriate, a MH PASRR or DD ISC approval. If the results indicate that SLP admission would not be appropriate, the negative determination is conveyed to the individual, as well as the SLP provider. Individuals have a right to appeal negative determinations through DMH or DDD respectively. It should be emphasized here that, if one SLP provider declines the admission, the MH PASRR or DD ISC determination can be utilized in application for admission with other SLP providers.

SLP Admission Assessment and Decision

The SLP provider community is expected to operate in compliance with this State policy and rules regarding non-discriminatory access in their admissions policies, processes, and communications. Going forward, SLP providers are required to delay admission decision-making and extensive exploration of an individual's possible SMI or DD until the results of the MH PASRR or DD ISC assessment are received. Upon receipt of the determination, SLP providers will conduct their own more detailed assessment of capacity to meet individual needs. Based on all the information, the SLP will make a decision on admission.

For a three year period, SLP providers will be required to keep logs and record information about all SMI inquiries, all applications, accepted admissions, and declined admissions with rationale to resolve concerns specific to access for this population. HFS will periodically review these logs to support compliance efforts.

2/1/19