

State of South Carolina

METHODS FOR PROVIDING FOR SAFEGUARDS AGAINST UNNECESSARY OR INAPPROPRIATE
UTILIZATION OF CARE AND SERVICES IN NURSING FACILITIES

1. For Medicaid sponsorship, PASARR screening, resident case mix classification determination, and approval of admission and/or payment must be approved prior to admission or payment.
2. Nursing facilities shall review and assure appropriate resident case mix classification and the need for continuing care through completion and quarterly review of Resident Assessments.
3. SHHSFC through contracts with DHEC for Survey and Certification, PASARR Auditing, and Validation of Case Mix Classifications, will assure on a sampling basis compliance with resident assessment completion and review requirements, and PASARR requirements as well as appropriate placement and payment levels.

SC MA 91-14
EFFECTIVE DATE: 07/01/91
APPROVAL DATE: 10/15/91
SUPERSEDES: MA 85-14

COOPERATIVE AGREEMENT

BETWEEN THE

South Carolina State Department of Social Services

AND THE

South Carolina Department of Health and Environmental Control

RELATING TO THE

South Carolina State Medical Assistance Program (Title XIX
of the Social Security Act)

This Agreement shall be effective the 1st day of July, 1974 by and between the State Department of Social Services, hereinafter referred to as "DSS", and the South Carolina Department of Health and Environmental Control, hereinafter referred to as "DHEC", for the purpose of defining the responsibilities of the parties hereto in certifying intermediate care and skilled nursing facilities for participation in the South Carolina Medical Assistance Program (Title XIX of the Social Security Act) and providing consultative services required by Section 1902(a)(24) of the Social Security Act.

The implementation of P.L. 92-603 and subsequent HEW guidelines reinforces the close working relationship and coordination required between DSS and DHEC, particularly in the Medical Review area. In general, DSS in the conduct of Medical Review will provide consultation and assistance to insure that the facilities are providing quality patient care as required on a continuing basis. The role of DHEC will be primarily related to the conduct of Surveys to determine compliance with the Conditions of Participation, Certification, and such consultation and follow up as may be required to insure that facilities are complying with the Standards for Participation in the Title XIX Program. Continued close liaison between the agencies is necessary for the development of policies and procedures prior to consultation with Providers. Free exchange of information, copies of reports, consultation visits and other relevant material is necessary as a part of the coordinated effort to assist the facilities in providing quality health care.

WHEREAS, the United States Department of Health, Education and Welfare has promulgated regulations (45 CFR Section 249.10(b)(4)(i) and 249.10(b)(15), or as amended) and (45 CFR Section 249.12, 249.13, and 249.33) concerning the

certification of intermediate care and skilled nursing facilities which impose duties and responsibilities upon the parties hereto. Section 249A of P.L. 92-603 provides for time-limited agreement periods for Title XVIII and XIX facilities;

WHEREAS, the DSS and the DHEC have both mutual and individual responsibility and interest in the South Carolina Medical Assistance Program (Title XIX, and whereas the relationship between these two agencies in the specific program under Title XIX of the Social Security Act, must be clearly defined, the following sections constitute a formal agreement between the two Agencies;

WHEREAS, the DSS is the single state agency to administer the South Carolina Plan for the Medical Assistance Program (Title XIX) - Section 1902(a)(5) of the Social Security Act and pursuant to the Code of Laws of South Carolina, 1962, as amended, Title 71, Chapter 1, articles 1 through 8, and Chapter 4, and executive letter dated August 27, 1965 (Governor Robert E. McNair to Secretary of Department of Health, Education, and Welfare);

WHEREAS, the DHEC is the agency with the authority to determine compliance of intermediate care and skilled nursing facilities participating in the South Carolina Medical Assistance Program (Title XIX) with 45 CFR Section 249.12, 249.13, and 249.33. DSS will notify DHEC of any compliance matters in existence pending satisfactory resolution prior to certifying a facility.

NOW THEREFORE, for and in consideration of the mutual premises and mutual benefits to be conferred upon each other as hereinafter stipulated, the parties hereto agree to perform the following duties.

ARTICLE 1

DEFINITIONS

Section 1. An intermediate care facility is an institution (or a distinct part of an institution) which meets the requirements specified in 45 CFR Section 249.10(b)(15).

Section 2. The term "skilled nursing home" means an institution (or a distinct part of an institution) which meets the requirements specified in 45 CFR Section 249.10(b)(4)(i).

ARTICLE II

DUTIES OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Section 1. The DHEC shall perform the following duties in accordance with standards established by 45 CFR Section 249.12, 249.13, and 249.33 and other requirements established by the DSS for

intermediate care and skilled nursing facilities participating in the South Carolina Medical Assistance Program (Title XIX).

- a. Accumulate, maintain, and verify to the DSS, upon request, full and complete information on the ownership of each licensed intermediate care and skilled nursing facility, including the identity of each person having (10) percent or more interest; and if organized as a corporation, information as to the officers and the directors; and if organized as a partnership, identity of each of the partners.
- b. Validate licensure status and report to the DSS on the nursing facility's application to participate in the South Carolina Medical Assistance Program (Title XIX), and certify in writing, the degree of compliance of each licensed intermediate care and skilled nursing facility with reference to the standards set forth in 45 CFR Section 249.12, 249.13, and 249.33 respectively and Section 1861(J) of the Social Security Act, and that the facility:
 - 1) Employs a licensed administrator (20 CFR 405.1101(a), 45 CFR 249.12(b)(1) and 45 CFR 252.10(c)(1);
 - 2) Has in operation an organized nursing service which provides adequate nursing services as defined in 20 CFR 405.1124, 45 CFR 249.12(a)(9)(i)(A),(B),(C), and 249.13(c)(6) and Part 6-191-00, Medical Assistance Manual;
 - 3) Maintains professional planning and supervision of menus and meal service for patients/residents for whom special diets or dietary restrictions are medically prescribed (20 CFR 405.1125, 45 CFR 249.12(a)(7), 249.13(c)(4);
 - 4) Has satisfactory policies and procedure relating to maintenance of medical records (20 CFR 405.1132, 45 CFR 249.12(a)(4), 249.13(d);

- 5) Has satisfactory policies relating to the administration and distribution of drugs, medications, and biologicals, (20 CFR 405.1127, 45 CFR 249.12(a)(8), and 249.13(c)(7));
- 6) Maintains satisfactory policies and procedures relating to physician coverage and emergency medical attention (20 CFR 405.1123, 45 CFR 249.12(b)(6), and 249.13(c)(5));
- 7) Has entered into written agreements with one or more general hospitals, under which such hospitals will provide needed diagnostic and other services to patients and under which hospitals agree to timely acceptance, as patients thereof, of acutely ill patients who are in need of hospital care (20 CFR 405.1133, 45 CFR 249.12(a)(2) and 249.33(b)(8));
- 8) ????
(20 CFR 405.1125(g), 405.1134, 405 (35, 405.1135, and 45 CFR 249.12(a)(6) and 45 CFR 249.13(b)(6) and (f));
- 9) Meets the requirements of the Life Safety Code (National Fire Protection Association, NPPA, No. 101,1967), or of such comparable State Fire and Safety Code, as are applicable to intermediate care and skilled nursing facilities (20 CFR 405.1120(c), 405.1134, and CFR 249.12(a)(5), and 45 CFR 249.13(f). Phase in periods for compliance with Life Safety Code Regulations is spelled out in 45 CFR 249.33(a)(2)(i) and 45 CFR 249.33(a)(8)(i)(B).
- 10) Meets the requirements for Utilization Review; Section 1861(k) of the Social Security Act; Section 1903(g)(1)(A) of the Social Security Act; and 20 CFR 405.1137;

- 11) Meets the requirements of 20 CFR 405.1121(i) and 45 CFR 249.12, and 249.33 for written agreement with outside sources for professional services not available through the facility.

Section 2. For skilled nursing facilities participating in both Titles XVIII and XIX which meet the requirements established by the Department of Social Services for participation in the South Carolina Medical Assistance Program whether or not they fail to meet any or all of the itemized requirements set out in Section "1b" above, the Department of Health and Environmental Control will make a written report to the Regional Office listing (1) the facility's area of deficiency(s); (2) the reasonable prospects for correction of the deficiency(s) within a reasonable time frame; (3) the facility's plan for correction of the deficiency(s); and (4) the official opinion with any supporting information of the Department of Health and Environmental Control as to whether the deficiency does or does not jeopardize the health and safety of the patients residing in such licensed facility.

For Title XIX only skilled nursing facilities and all intermediate care facilities, the Department of Health and Environmental Control will make a written report to the Department of Social Services listing the afore mentioned items and establishing the certification and period of certification.

Section 3. The DHEC shall make on-site inspections, with qualified personnel, at least once during the term of the provider agreement, or more frequently if there is a question of compliance, and file a report with the Regional office for skilled nursing facilities participating in Title XVIII and XIX and with the DSS for all intermediate care and skilled nursing facilities participating in Title XIX only. This report shall:

(1) tell whether the item(s) of deficiency found or previously identified have been corrected or are in the process of being corrected, or recommend waiver where authorized by 45 CFR 294.12, 249.13, and 45 CFR 249.33 with supporting documentation, with the exception of all skilled nursing facilities' Life Safety Code waivers which will be sent to the Regional Office for approval;

(2) indicate the progress being made by the facility in correcting the deficiency(s); and, include an official opinion, with any supporting information, as to whether the deficiency(s) does or does not jeopardize the health and safety of the patients.

a. Standards for qualified personnel who perform surveys shall mean those personnel who satisfy the Federal Surveyor Qualification Standards as specified in the Medical Services Administration Medical Assistance Manual, Part 6 (General Program Administration), Section 6-201-00, Standards for Qualified Personnel Who Perform Surveys of Skilled Nursing Homes.

Section 4. The DHEC shall employ adequate qualified staff to perform the functions set out in Section "1 through 3", above. When a survey is contemplated, a review of all available records, State and Federal, will determine the composition of the survey team.

Section 5. The DHEC shall maintain all information and reported used in determining whether a nursing facility meets the requirements set forth in Section "1", above, for a period of not less than three (3) years, or provide, by separate Agreement for the transferal of all such information to the DSS.

Section 6. The DHEC shall make reports in such form and containing such

information as the DSS may require and comply with instructions issued to insure the correctness of reports, including provisions made for the inspection and review at all reasonable times, of fiscal, statistical, and other records for the review of operations within the scope of this Agreement.

Section 7. The DHEC shall keep the DSS regularly informed of actual failure of immediate care and skilled nursing facilities to comply with the provisions stated in Article II, Section 1 of this amendment. When the DHEC learns or is informed in writing by the DSS of the potential failure of a facility to maintain said provisions, appropriate corrective action will be taken by either DSS or DHEC and where indicated by both agencies. The DSS and DHEC shall maintain unrestricted interchange on any problem area that may arise.

Section 8. The DHEC shall permit duly authorized representatives of the United State Department of Health, Education, and Welfare, the United State General Accounting Office, and the DSS access to the DHEC records relative to surveying and certification of intermediate care and skilled nursing facilities and cost for providing these services, for audit and other purposes.

Section 9 The DHEC shall, at least once in each calendar quarter, obtain from intermediate care and skilled nursing facilities, quarterly personnel statements covering one work week taken from payroll records and review such statements for compliance with staffing requirements. (45 CFR 249.12 and 249.33(a)(5)(ii)).

ARTICLE III

DUTIES OF THE DEPARTMENT OF SOCIAL SERVICES

Section 1. The DSS shall perform the following duties in accordance with

standards established by 45 CFR 249.12 and 249.13 for intermediate care facilities and 45 CFR 249.33 for skilled nursing facilities participating in the South Carolina Medical Assistance Program (Title XIX).

- a. Establish and transmit to the DHEC, the qualifications of intermediate care and skilled nursing facilities to participate in the South Carolina Medical Assistance Program (Title XIX). Such entitlement (subject to a determination of a facility's substantial compliance with the provisions of 45 CFR 249.12 or 249.33 and other appropriate regulations) shall be for (1) a 12 month period; (2) a 12 month period with automatic cancellation clause providing a termination of agreement at end of 12 months for not correcting deficiencies; (3) a 12 months period subject to automatic cancellation at end of the allocated time to correct the deficiency(s).
- b. Issue to intermediate care and skilled nursing facilities the appropriate provider agreement which specifies the period for which the facility is certified to participate in the South Carolina Medical Assistance (Title XIX), and inform the DHEC.
- c. Advise intermediate care and skilled nursing facilities of the scope and limitations of the South Carolina Medical Assistance Program (Title XIX), of the responsibility of the DSS to the intermediate care and skilled nursing facilities, and the facility's responsibility to the program and to patients eligible to receive Title XIX medical care and services.
- d. Review all questionable situations that arise about an intermediate care or skilled nursing facility and assess the level of correction of such situations.
- e. Inform the DHEC of all requests by intermediate care and skilled nursing facilities to participate in the South Carolina Medical Assistance Program (Title XIX).

- f. Identify in writing those facilities that should be reviewed by the DHEC where quality of services rendered, or practices of the facility may be in question.

Section 2. The DSS shall establish and maintain such records as may be necessary to fulfill the requirements of this Agreement.

Section 3. The DSS shall make such reports, in such form and containing such information, to the DHEC as are required in the consideration of the certification, or decertification, or intermediate care and skilled nursing facilities by the DSS.

Section 4. The DSS shall permit duly authorized representatives of the United States Department of Health, Education and Welfare, and the United States General Accounting Office access to the DSS records relative to the certification of intermediate care and skilled nursing facilities and records of costs for providing services, for audit and other purposes.

Section 5. The DSS shall maintain all records and documentation supporting this Agreement for a period of five (5) years after the last day of the fiscal year to which the Agreement applies or until federally audited, whichever is sooner. However, records and documentation will be retained until the exceptions have been resolved in audit exceptions have been reported to the grantee.

Section 6. The DSS shall at all time make the reports of its medical review teams available to DHEC for follow up measures as may be required and for consideration in pre-survey planning.

ARTICLE IV

PROVISION OF SPECIFIED CONSULTATIVE SERVICES

Section 1. The DHEC shall provide consultative services as described in Section 1902(a)(24) of the Social Security Act within the capabilities of the staff of the DHEC.

- a. Such consultative services shall be provided as indicated and will be directed toward assisting the facility in question to meet the standards established by 45 CFR 249.12 and 249.33.
- b. DSS will also provide consultation as indicated by second paragraph, page 1 of the Agreement.

Section 2. The DHEC shall report to the DSS on the progress, or lack of progress, made by any provider toward meeting standards established by 45 CFR 249.12 and 249.33.

Section 3. The DHEC shall maintain all information and records of costs of providing consultative services including part-time services of staff engaged in duties other than provision of consultative services.

Section 4. The DHEC shall permit duly authorized representatives of the United States Department of Health, Education, and Welfare, the United States General Accounting Office, or the DSS access to the DHEC records relative to consultative services in Title XIX participating intermediate care and skilled nursing facilities and records of costs for providing these services, for audit and other purposes.

Section 5. The DHEC and the DSS will jointly develop and revise procedures to implement orderly administration for providing consultative services to intermediate care and skilled nursing facilities and other providers.

Section 6. The DSS will cooperate and work closely with the staff of the DHEC for the augmentation and development of a program for providing consultative services to intermediate care and skilled nursing facilities participating in the South Carolina Medical Assistance Program (Title XIX) and other providers.

Section 7. The DSS shall permit duly authorized representatives of the United States Department of Health, Education, and Welfare, and the United States General Accounting Office access to the DSS records relative to consultative services provided to intermediate care and skilled nursing facilities.

ARTICLE V

TRAINING ACTIVITIES

Section 1. Training shall not be limited to the processes for surveying and certifying intermediate care and skilled nursing facilities for participation in Title XIX of the Social Security Act, but shall also include in-depth training with reference to the nature and scope of the Title XVIII program and policies, procedures and requirements. On request by DSS, DHEC will provide professional survey and certification consultation.

Section 2. The DSS will, draft informational and instructional materials, for purposes of training staff including in-depth training with reference to the nature and scope of the Title XIX program and policies, procedures, and requirements to include the medical review process.

Section 3. The DSS will meet with intermediate care and skilled nursing facility administrators (or other staff where applicable) as appropriate for purposes of interpretation of the Title XIX program, for orientation with references to Medicaid procedures including cost audit and the survey and certification process applicable to facilities participating in the Title XIX program, and will implement and carry out such other interpretive procedures as may be necessary.

Section 4. The DSS and the DHEC will supply to each other the names or staff in need of training. Each agency, so far as it is practical, will permit such staff to participate in training programs.

Section 5. Subsequent to completion of training programs as set forth in Section "1" above, the DSS and the DHEC will continue the training of staff by assignment, so far as it is practical, by on the job training.

Section 6. The DSS and DHEC will each designate a training officer for the purpose of coordinating joint training, orientation, and discussion sessions each quarter.

ARTICLE VI

FISCAL-GENERAL PROVISIONS

Section 1. Subject to revisions of Federal Regulations from the Department of Health, Education and Welfare, the DSS shall make payment under this Contract in accordance with the following method, such payment to be made upon presentation of a Certified Statement by DHEC. This Statement shall indicate the disposition of the amount requested by reference to the categories of expenses detailed in the budget. The DHEC will furnish the DSS an invoice statement each quarter indicating the recorded expenditures of funds.

- a. Payment of funds to which the DHEC is entitled shall be on a quarterly reimbursable basis upon receipt by the DSS of a statement of accountability from the DHEC.

- b. Payment under this contract is limited to the costs made in accordance with the projected budget submitted each fiscal year and prior to July 1 or as amended by joint consent subsequent thereto. It is expressly understood and agreed that in no event will the total reimbursement paid hereunder exceed the maximum sum of the projected budget as amended for all of the services required.

Section 2. The DHEC agrees to accept full responsibility for the provision of sound fiscal and administrative procedures and to accept full responsibility for compliance with Federal and State Law and pertinent regulations and agrees to accept all responsibilities both financial and otherwise for any and all deviations by it from such law and regulations.

Section 3. The DHEC will insure that no more than the specified amounts will be spent from the following cost categories without the written approval of the DSS. Cost determination should contain the essential line items outlined in the following format:

a. Personnel:

- 1) Number of Persons
- 2) Positions by Title
- 3) Annual Position Salary
- 4) Percent of Time Spent in the Program
- 5) Months to be Employed
- 6) Total Personnel Services Cost

b. Travel:

Travel and per diem will be used on the approved state rates.

c. Consumable Supplies:

Supplies will be listed as to type, i.e., office supplies, etc.

d. Equipment

Guidelines are stipulated in Section "5" below, however, equipment projections will be reflected as follows:

1) Office Equipment

- a) Desk - Quantity @ Unit Price, Total
- b) Chair - Quantity @ Unit Price, Total

- c) Typewriter - Quantity @ Unite Price, Total
- d) etc.

e. Training Expenses:

To classify expenditures for tuition and/or registration fees incurred by DHEC for program employees.

- f. All other expenses not classified above, but specified in projected budget.

Section 4. The DHEC shall maintain such records and accounts, including property, personnel, and financial records, as are deemed necessary by DSS and DHEC to assure proper accounting for all expenditures. These records shall be retained for three (3) years after the end of the Federal Fiscal Year if audit by or on behalf of the HEW has occurred by that time. If such audit has not occurred, the records must be retained until audit or until five (5) years following the end of the Federal Fiscal Year, whichever is earlier. However, in all cases, records shall be retained until resolution of audit questions.

Section 5. All non-expendable property acquired to this program shall not be used for any other purposes than those outlined in this Contract or disposed of in any manner without the written permission and mutual consent of the HEW-SRS Atlanta Regional Office, DSS, and DHEC. Such non-expendable property being property which will not be consumed or lose its identity and is expected to have a useful life of one (1) year or more. All such property will be listed on a property record inventory by description, model and serial number, date of acquisition, cost of acquisition and identified as new or used. Title to such non-expendable property shall be vested in DSS and shall be considered as a loan for use during the life of this program. Requisition for all equipment will require prior authorization from the Fiscal Officer of DSS.

Section 6. Any time during regular business hours and as often as the

HEW-SRS Atlanta Regional Office or the DSS may deem necessary, there shall be made available to the HEW-SRS Atlanta Regional Office and DSS for examination the DHEC records with respect to all matters covered by this Contract and DHEC will permit the DSS or the HEW-SRS Atlanta Regional Office or its designated representative to audit, examine and make excerpts of invoices, materials, payrolls, records or personnel conditions of employment and other data relating to all matters covered by this Contract.

section 7. The DHEC must describe the service being provided under this Contract, the estimated annual cost for the fiscal year, and the basis for allocating such costs to the program being affected. Indirect costs applicable to such services can be included for Federal Sharing only if the DHEC has an Indirect Cost Rate Proposal approved by the cognizant Federal agency and if the amounts are in accord with such approved methods.

ARTICLE VII

MISCELLANEOUS

Section 1. Personnel of the DSS and DHEC performing functions under this Agreement shall be subject to the Merit System. The Merit System shall be applicable, in accordance with Federal standards, to personnel performing functions under this Agreement.

Section 2. The DSS and DHEC will comply with such rules, regulations, and standards as are necessary to carry out the purposes of the Agreement.

Section 3. All provisions of this Contract and attachments hereto are contingent upon any and all possible revisions of Federal Regulations governing the purchase of service and are subject to renegotiation at such time.

Section 4. The DHEC and the DSS shall be informed of and be given

opportunity to send a representative to any official Federal or State inter-agency meeting during which matters pertaining to their responsibilities, as outlined in this Contract, are discussed. Such meetings should have joint representation from DHEC and DSS for mutual benefit thereby derived.

ARTICLE VIII

AMENDMENTS AND ASSIGNABILITY

Section 1. This Agreement supersedes and voids the Agreement between the parties dated June 29, 1972, with reference to the Medical Assistance Program, excepting that portion required by 45 CFR 251.10. This Agreement shall not affect any other Agreement in effect between DSS and DHEC.

Section 2. This Agreement constitutes the whole Agreement between the parties and it is mutually understood and agreed that no alterations or variations to the terms of this Agreement shall be valid unless amendments hereto are made in writing and agreed to by both parties. It is further agreed that this contract, not any part thereof, is assignable or transferable.

ARTICLE IX

TERMINATION OF AGREEMENT

Section 1. Either party may terminate this Agreement on sixty (60) days advance notice by certified mail to the other party.

Section 2. If this Agreement is terminated, any funds paid to the DHEC under the provisions of this Agreement which have not been expended or encumbered in accordance with the provisions of this Agreement prior to the date as of which the Agreement was terminated and

any property purchased with funds paid to the DHEC under the provisions of this Agreement, shall be accounted for in accordance with standards established by the DSS governing disposition of such property and funds.

In Witness Hereof, the Parties Hereto have set their hands and seals.

AS TO SOUTH CAROLINA DEPARTMENT
OF HEALTH AND ENVIRONMENTAL
CONTROL

AS TO SOUTH CAROLINA STATE
DEPARTMENT OF SOCIAL SERVICES

BY: //S//
E. Kenneth Aycock
COMMISSIONER

BY: //S//
R. Archie Ellis
COMMISSIONER

DATE: 7-31-74

DATE: 7-31-74

WITNESSES:
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