**Section 112.20 Admission, treatment and habilitation of mentally retarded persons**

Mentally retarded persons shall be admitted to Department facilities in accordance with the following procedures.

a) Admission

Persons shall be admitted to Department facilities based on an assessment of their current individual needs and not solely on the basis of inclusion in a particular diagnostic category, identification by a sub-average intelligence test score, or consideration of a past history of hospitalization or residential placement.

b) Treatment and habilitation plans

Treatment and habilitation plans formulated for persons in Department facilities shall be governed by and conform to the Sections 3-209 and 4-309 of the Code.

c) Classification

All diagnoses of retardation shall be defined according to the Diagnostic and Statistical Manual of Mental Disorders, Revised Third Edition (DSM-III-R) (American Psychiatric Association, 1987 with no later editions or amendments).

d) Definitions

"Developmental disability facility." *A facility or section thereof licensed or operated by or under contract with the* *State* *or a political subdivision thereof and which admits* *persons with a developmental disability* *for residential or habilitation services* (Section 1-107 of the Code).

"Mental health facility." Any facility operated by the Department or any unit within such a facility which is used for the treatment of persons who are mentally ill as provided in Chapter 3 of the Code.

"Mental retardation." Significantly subaverage intellectual functioning: an intelligence quotient (IQ) of 70 or below on an individually administered IQ test; concurrent deficits or impairments in adaptive behavior, the person's age being taken into consideration; onset before the age of 18. There are four subtypes based on IQ levels: mild mental retardation (50-55 to 70), moderate mental retardation (35-40 to 50-55) severe mental retardation (20-25 to 35-40) and profound mental retardation (below 20 or 25).

"Qualified mental retardation professional (QMRP)" (42 CFR 483 et seq., 1988, with no later editions or amendments). Any of the following persons who have specialized training in the following areas or one year experience working with or treating the mentally retarded:

An educator with a degree in education from an accredited program.

A physical therapist licensed in accordance with Section 2 of the Illinois Physical Therapy Act [225 ILCS 90/2].

An occupational therapist licensed pursuant to Section 3 of the Illinois Occupational Therapy Practice Act [225 ILCS 75/3].

A physician licensed by the State of Illinois to practice medicine or osteopathy pursuant to Section 3 of the Medical Practice Act of 1987 [225 ILCS 60/3].

A licensed psychologist with a doctorate from an accredited program pursuant to Section 10 of the Clinical Psychologist Licensing Act [225 ILCS 15/10].

A registered nurse with a valid current Illinois registration to practice as a registered professional nurse pursuant to Section 4 of the Illinois Nursing Act of 1987 [225 ILCS 65/4].

A speech-language pathologist or audiologist licensed pursuant to Section 7 of the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110/7].

A licensed social worker or a licensed clinical social worker with at least a master's degree pursuant to Section 9A of the Clinical Social Work and Social Work Practice Act [225 ILCS 20/9A].

A therapeutic recreation specialist who is a graduate of an accredited program and eligible for certification by the National Council for Therapeutic Recreation Certification.

A rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification.

e) Severely or profoundly mentally retarded persons

1) Any person admitted to a Department mental health facility with an admitting diagnosis of severe or profound mental retardation shall be transferred to a developmental disabilities facility or unit within 72 hours after admission unless transfer is contra-indicated by the person's medical condition documented by the evaluating physician.

2) Any person who is diagnosed as severely or profoundly mentally retarded while in a Department mental health facility shall be transferred to a developmental disabilities facility or unit within 72 hours after such diagnosis unless the transfer is contra-indicated by the person's medical condition as documented by the evaluating physician.

f) Mildly or moderately mentally retarded persons

1) Any person admitted to a Department of mental health facility who may be mildly or moderately mentally retarded in the clinical judgment of facility staff, including those who are also mentally ill, shall be evaluated by a multi-disciplinary team which includes a qualified mental retardation professional as defined in subsection (d) of this Section. The evaluation shall be consistent with Section 4-300(b) of the Code and shall include:

A) A written assessment whether the person needs a habilitation plan consistent with Section 4-309 of the Code;

B) A written habilitation plan if the written assessment determines that such plan is required, and

C) A written determination whether the admitting facility is capable of providing the specified habilitation services.

2) This evaluation shall occur within a reasonable period of time, but in no case shall exceed 14 days after admission. In all events, a treatment plan shall be prepared for the person within three days after admission, and reviewed and updated every 30 days, consistent with Section 3-209 of the Code.

3) A mentally retarded person shall not reside in a Department mental health facility unless the person is evaluated and is determined to be mentally ill and the facility director determines that appropriate treatment and habilitation are available and will be provided to such person at the facility. In all such cases the mental health facility director shall certify in writing within 30 days of the completion of the evaluation and every 30 days thereafter, that the person has been appropriately evaluated, that services specified in the treatment and habilitation plans are being provided and that the setting in which services are being provided is appropriate to the person's needs. The certifications shall be filed in the recipient's record.

4) If the facility director determines that appropriate treatment and habilitation services are not available or that the setting in which services are provided are not appropriate to the recipient's needs, the facility director shall seek a placement for the recipient that is appropriate to his or her needs. Transfers and discharges shall be carried out in accordance with Section 112.20.

g) Utilization review

1) A person residing in a Department mental health facility who is evaluated as being mildly or moderately mentally retarded, an attorney or advocate representing the person, or a guardian of such person may object to the facility director's certification required in subsection (f)(3) of this Section, the treatment and habilitation plans, or the appropriateness or setting and request a utilization review as provided in Sections 3-207 and 4-209 of the Code.

2) Notice requirements

A) After evaluation

Within 24 hours after an evaluation as required by subsection (f)(1) of this Section or the certification(s) as required by subsection (f)(3) of this Section, the mental health facility director shall give written notice to each person evaluated as being mildly or moderately retarded, or to each person certified, the person's attorney and guardian, if any, or in the case of a minor to his or her attorney, to the parent, guardian or person in loco parentis and to the minor if he or she is 12 years of age or older, of his or her right to request a utilization review of the facility director's determination that such person is appropriately placed or is receiving appropriate services.

B) Notice contents

All notices given pursuant to this subsection shall provide the address and telephone number of the Chicago office of the Legal Advocacy Service of the Guardianship and Advocacy Commission and the instructions that the person or his or her guardian may contact that office for assistance. Facility staff shall notify the recipient or guardian that staff are available to assist in contacting the Legal Advocacy Service. If the recipient's or guardian's primary language is not English, arrangements must be made to provide an adequate explanation in the person's primary language of the nature of the recipient's right to request review. If a staff member is available who is fluent in the language required, he or she should be requested to explain the notice to the recipient or guardian.

3) The utilization review committee

The utilization review committee shall be appointed in accordance with Section 112.10(f), with the exception that the committee shall include as one of its members a qualified mental retardation professional as defined in subsection (d) of this Section. If all the qualified mental retardation professionals at the facility were involved in the decision on which the hearing will be held, the facility director shall request that the appropriate deputy director for facility operations assign a qualified mental retardation professional from another facility to the committee for that hearing.

4) The utilization review hearing

The utilization review hearing shall be conducted in accordance with Section 112.10(g).

5) Standards

The following standards shall be used by the committee in reaching its decision:

A) Certification as mildly or moderately mentally retarded

Whether there is substantial evidence to support the diagnosis of an individual as mildly or moderately mentally retarded.

B) Receiving appropriate services

Whether there is substantial evidence to support the conclusion that the person is receiving services that are called for in his or her treatment and habilitation plans, and that those services are appropriate and necessary in accordance with the person's treatment and habilitation goals and objectives.

C) Appropriate setting

Whether there is substantial evidence that the person is placed in a setting (unit or facility) that is appropriate to meet the person's treatment and habilitation needs, and that the individual's service needs can be met at the unit or facility.

6) The committee's findings of facts, conclusions and recommendations.

The committee's findings of facts, conclusions and recommendations shall be made in accordance with Section 112.10(i).

7) The facility director's decision

The facility director's decision shall be made in accordance with Section 112.10(j).

8) Review by the Secretary

Review of the facility director's decision by the Secretary shall be in accordance with Section 112.10(k).

9) Final administrative decision

The decision of the facility director or the decision of the Secretary shall be subject to review in accordance with the Administrative Review Law.

(Source: Added at 13 Ill. Reg. 20344, effective December 19, 1989)