

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 146
SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING PROGRAM (SLP) SETTINGS

Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLP Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Non-Compliance Action
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups
146.295	Emergency Contingency Plan
146.300	Waivers
146.305	Reporting of Suspected Abuse, Neglect and Financial Exploitation
146.310	Facility Management of Resident Funds

SUBPART C: STATE HEMOPHILIA PROGRAM

Section

- 146.400 Definitions
- 146.410 Patient Eligibility
- 146.420 Hemophilia Treatment Centers
- 146.430 Comprehensive Care Evaluation
- 146.440 Home Transfusion Arrangements
- 146.450 Obligations of the Department

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section

- 146.500 General Description
- 146.510 Definitions
- 146.520 Participation Requirements
- 146.530 Records and Data Reporting Requirements
- 146.540 Covered Children's Community-Based Health Care Center Services
- 146.550 Reimbursement for Services
- 146.560 Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
- 146.570 Prior and Post Approval of Services

SUBPART E: SUPPORTIVE LIVING PROGRAM (SLP) SETTINGS
WITH DEMENTIA CARE UNITS

Section

- 146.600 General Description
- 146.610 Structural Requirements
- 146.620 Participation Requirements
- 146.630 Resident Participation Requirements
- 146.640 Services
- 146.650 Reimbursement for Medicaid Residents
- 146.660 Staffing
- 146.670 Assessment and Service Plan and Quarterly Evaluation
- 146.680 Monitoring
- 146.690 Reporting Requirements
- 146.700 Resident Rights
- 146.710 Discharge

SUBPART F: BIRTH CENTERS

87	Section	
88	146.800	General Description
89	146.810	Participation Requirements
90	146.820	Record Requirements
91	146.830	Covered Birth Center Services
92	146.840	Reimbursement of Birth Center Services

SUBPART G: SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES

96	Section	
97	146.900	General Provisions
98	146.910	Reimbursement

SUBPART H: MEDICALLY COMPLEX FOR THE
DEVELOPMENTALLY DISABLED FACILITIES

103	Section	
104	146.1000	Applicability of This Part
105	146.1001	MC/DD Service Criteria
106	146.1005	Determination of Program (Active Treatment) Costs
107	146.1010	Inspection of Care and Rate Setting Appeal Process
108	146.1015	Exceptional Care Needs of Clients with Developmental Disabilities
109	146.1020	Specialized Care – Behavior Development Programs
110	146.1025	Specialized Care – Health and Sensory Disabilities
111	146.1030	Functional Needs
112	146.1035	Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities

115	146.TABLE A	Guidelines for Determining Levels of Functioning
116	146.TABLE B	Standardized Adaptive Functional Assessment

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SUBPART B: SUPPORTIVE LIVING PROGRAM (SLP) SETTINGS

Section 146.205 Definitions

For purposes of this Part, the following terms shall be defined as follows:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish (42 CFR 488.301).

"Activities of Daily Living" or "ADL" means eating, bathing, dressing, transferring, toileting, walking and grooming.

"Advance Directive" means a power of attorney that gives a designated individual decision-making powers upon a person's incompetence. The Department of Public Health is required to make available a Uniform Do Not Resuscitate Advance Directive that may be used in all settings, the Statutory Will Declaration form, the Illinois Statutory Short Form Power of Attorney for Health Care, the statutory Declaration of Mental Health Treatment Form, and the summary of advance directives law in Illinois (Section 2310-600 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310-600]).

"Bank Nursing Facility Beds" means a choice by SLP providers to participate by converting a distinct part of a nursing facility. Such facilities shall be allowed to retain the Certificate of Need for nursing beds that were converted.

"Complaint" means a phone call, letter or personal contact to the Department from a resident, family member, resident representative or any other interested person expressing a concern related to the health, safety or well-being of one or more SLP residents.

"Comprehensive Resident Assessment Instrument" or "RAI" means the Department designated resident assessment instrument designed for use in SLP settings.

"Declaration of Mental Health Treatment" means a document that lets a person state he or she wants to receive electroconvulsive treatment (ECT) or psychotropic medicine when the person has a mental illness and is unable to make decisions for himself or herself. It also allows a person to say whether he or she wishes to be admitted to a mental health facility if unable to make that decision.

"Department" means the Illinois Department of Healthcare and Family Services.

"Determination of Need" or "DON" means the assessment tool used by the Department or the Department's authorized representative to determine functional needs of a resident or prospective resident of the SLP in which the resident or prospective resident has been found to be in need of a nursing facility level of care. A minimum score of 29 is required on the DON, which indicates a nursing facility level of care, before payment may be authorized for the SLP resident.

"Developmental Disability" or "DD" means a disability that is attributable to a diagnosis of mental retardation or related condition such as cerebral palsy or

epilepsy that results in impairment of general intellectual functioning or adaptive behavior. This condition is manifested before the age of 22 and is likely to continue indefinitely. It results in substantial functional limitations in three or more areas of major life activities, such as self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

"Direct Care Staff" means staff that provides professional nursing services, assistance with activities of daily living or other personal needs or maintenance, or general supervision and oversight of the physical and mental well being of an individual.

"Distinct Part" means a separate building or an entire wing or other physically identifiable space of an existing nursing facility licensed under the Nursing Home Care Act or the Hospital Licensing Act that is operated as an SLP setting distinguishable from the rest of the facility. The distinct part of a nursing facility will not be subject to provisions of the Nursing Home Care Act. The distinct part of a hospital will be subject to provisions of the Hospital Licensing Act while complying with provisions of this Subpart B. Distinct part does not include the conversion of an entire nursing facility or hospital.

"Do Not Resuscitate" or "DNR" means a medical treatment order that says cardiopulmonary resuscitation (CPR) will not be attempted if a person's heart and/or breathing stops.

"Durable Power of Attorney" means power of attorney given to a person designated as another person's agent giving broad powers to make health care decisions, including power to require, consent to or withdraw any type of personal care or medical treatment for any physical or mental condition, and to admit or discharge a person from any hospital, home or other institution.

"Financial Exploitation" means the act of obtaining control over a resident or his or her property and/or resources through deception or intimidation to the disadvantage of the resident and/or the profit of another and/or the intent of depriving the resident of the use, benefit or possession of his or her property and/or resources.

"Follow-up Care" means the response to, and documentation of, the service plan that is discussed with, and agreed to by, the resident and/or the resident's guardian. It may include, but is not limited to, physician referrals, revision of the service plan to incorporate nursing services, health promotion counseling and teaching self care in meeting health needs.

"Freestanding Facility" means a separate building that is not part of an existing nursing facility or hospital. Freestanding facility includes new construction, an existing building or conversion of an entire nursing facility or hospital into an SLP setting.

"Immediate Jeopardy" means a situation in which a provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment or death to a resident (42 CFR 488.301).

"Instrumental Activities of Daily Living" or "IADL" means activities related to independent living and includes preparing meals, managing money, shopping for groceries or personal items, performing light or heavy housework, and using a telephone.

"Licensed Nurse" means a person whose services are paid for by an SLP and who is licensed as a registered nurse, registered professional nurse, practical nurse or licensed practical nurse under the Nurse Practice Act [225 ILCS 65].

"Living Will" means a document that tells a person's health care professional whether the person wants death-delaying procedures used if the person has a terminal condition, and the person is unable to state his or her wishes. A terminal condition means an incurable and irreversible condition such that death is imminent, and the application of any death delaying procedures serves only to prolong the dying process. A living will allows for the administration of medication, sustenance, or the performance of any medical procedure deemed necessary by the person's attending physician to provide the person with comfort care.

"Mandated Reporter" is anyone identified in the Elder Abuse and Neglect Act [320 ILCS 20] that shall report suspected abuse while engaged in carrying out professional duties. A mandated reporter includes, but is not limited to, a professional or professional's designee while engaged in social services and the care of an adult age 60 and over. It also includes, but is not limited to, any occupation required to be licensed under the Dietetic and Nutrition Services Practice Act [225 ILCS 30], Nurse Practice Act, and Nursing Home Administrator Licensing and Disciplinary Act [225 ILCS 70], and field personnel of the Departments of Healthcare and Family Services, Public Health and Human Services and any county or municipal health department.

"Medicaid" means the Department's Medical Assistance Program.

"Medicaid Resident" means a person with a physical disability (as determined by the Social Security Administration) age 22 years and over or a person who is age

65 years and over, who has been determined eligible for Medicaid payment for SLP services. Eligibility for a person residing in an SLP setting shall be determined in accordance with 89 Ill. Adm. Code 120.10 and 120.61 (excluding subsection (f) of Section 120.61). Provisions for property transfers as described at 89 Ill. Adm. Code 120.387 shall apply to a person residing in an SLP setting. Provisions for the prevention of spousal impoverishment as described at 89 Ill. Adm. Code 120.379 shall apply to a person residing in an SLP setting.

"Medical Assistance Program" means the program administered under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] or successor programs and Title XIX of the Social Security Act (42 USC 1396) and related federal and State rules and regulations.

"Medication Error" includes, but is not limited to, incorrect dosage, medication given at incorrect time, wrong medication given, wrong route used or missed medication.

"Neglect" means a failure by the SLP provider to notify the appropriate health care professional, to provide or arrange necessary services to avoid physical or psychological harm to a resident, or to terminate the residency of a resident whose needs can no longer be met by the SLP provider, causing an avoidable decline in function. Neglect may be either passive (non-malicious) or willful.

"Personal Allowance" means the ~~\$90 minimum~~ protected monthly amount of a Medicaid-eligible resident's income that is retained by Medicaid-eligible residents for their personal use.

"Progress Notes" means notes used to document the decline or improvement in a resident's status.

"Rehabilitated Nursing Facility" means the conversion of a distinct part of an existing nursing facility into an SLP setting.

"Related Parties" means affiliates of an SLP provider; entities for which investments are accounted for by the equity method by the entire enterprise; trusts for the benefit of employees, such as pensions and profit-sharing trusts that are managed by or under the trusteeship of management; any general partner; management of the SLP setting; members of the immediate families of principal owners of the SLP setting or its management; and other parties with which the SLP provider may deal if one party controls or can significantly influence management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. An entity or person shall be deemed by the Department to be a related

party if it can significantly influence management or operating policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

"Resident" means a person living in an SLP setting, including Medicaid residents as defined in this Section and individuals who are not eligible for Medicaid payment for SLP services.

"Resident Assessment Instrument" or "RAI" or "Comprehensive Resident Assessment Instrument" means the Department designated resident assessment instrument designed for use in SLP settings.

"Room and Board" means the housing, utilities and meals provided under the resident contract. Unless otherwise specified in the resident contract, room and board does not include phone or cable charges.

"Security Deposit" means a payment used to secure the payment of rent or compensation for damage to property for residential property containing 25 units or more (see Security Deposit Interest Act [765 ILCS 715]). A security deposit may also include a pet deposit to secure payment for damage to the residential property. Damage to property shall not include normal wear and tear to an apartment or any other part of the SLP setting.

"Serious Mental Illness" means:

A diagnosis of a major mental illness, such as schizophrenia, schizoaffective disorder, bipolar disorder, major depression, panic disorders, obsessive compulsive disorder, and any other disorder that could lead to a chronic disability that is not a primary diagnosis of dementia. If the person has both a dementia diagnosis and another psychiatric condition, the symptoms of dementia must be significantly more progressed than symptoms of the co-occurring psychiatric condition;

A disorder for which the duration is a significant life disruption or that required major treatment episodes within the past two years. This does not necessarily mean that the individual was hospitalized; and

That the disability or Level of Impairment is characterized by active behavioral health symptoms, within the preceding six month period, that significantly interfere with the individual's ability to interact

interpersonally, concentrate, follow through with goals or needs, and/or adapt effectively to change.

"Services" means the personal and health care related services provided by an SLP provider pursuant to Section 146.230.

"Service Plan" means the written plan of care on the Department designated form that is developed for each resident based upon the initial assessment, annual comprehensive resident assessment or quarterly evaluation.

"Significant Change" means that there has been a decline or improvement in a resident's status that will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions, and the decline or improvement impacts more than one area of the resident's health status and requires revision of the Service Plan.

"SSI" means Supplemental Security Income under Title XVI of the Social Security Act.

"Subcontractor" means any person who assumes any duties and responsibilities from an SLP provider for the performance of SLP services pursuant to Section 146.230.

"Supportive Living Program" or "SLP" means a residential setting that meets the requirements of this Subpart B or, for dementia care settings, the requirements of this Subpart B and Subpart E.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 146.225 Reimbursement for Medicaid Residents

Supportive Living Programs (SLPs) shall accept the reimbursement provided in this Section as payment in full for all services provided to Medicaid residents.

a) The Department has established the rate methodology for SLP providers as follows:

- 1) Prior to July 1, 2014, the Department shall establish its portion of the reimbursement for Medicaid residents by calculating 60 percent of the weighted average (weighted by Medicaid patient days) nursing facility rates for the geographic grouping as defined in Section 146.290. Each SLP shall be paid 60 percent of the weighted average nursing facility geographic group rate, based upon the nursing facility geographic group in

which it is located. The rates paid to SLPs shall be updated semi-annually on April 1 and on October 1 to assure that the rates coincide with 60 percent of weighted average nursing facility geographic group rates. Notwithstanding the provisions of this subsection, the supportive living program rates shall remain at the level in effect on April 30, 2011.

- 2) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval, as of July 1, 2014, supportive living program rates shall no longer be 60 percent of the weighted average nursing facility rates for the geographic group rate, based upon the nursing facility geographic group in which it is located.
- 3) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval, for dates of service on or after July 1, 2014, rates effective on June 30, 2014 shall be increased 8.85 percent.
- 4) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, and subject to federal CMS approval of the imposition of the assessment in 89 Ill. Adm. Code 140.86, for dates of service on or after July 1, 2014, rates effective July 1, 2014 shall be increased an additional 9.09 percent.
- 5) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153.126, for dates of service on or after July 1, 2017, rates effective on June 30, 2017 shall be increased by 2.8 percent.

- b) The payment rate received by the SLP from the Department for services, ~~with the exception of meals,~~ provided in accordance with Section 146.230 shall constitute the full and complete charge for services rendered. Additional payment, other than patient credits authorized by the Department, may not be accepted. ~~Meals are included in the room and board amount paid by the resident.~~
- c) Single Occupancy: Each Medicaid resident of an SLP shall be allotted a personal needs allowance in an amount listed at 89 IAC 120.61(f)(2)(C) ~~a minimum of \$90 per month~~ as a deduction from his or her income as a protected amount for personal use. The SLP may charge each Medicaid resident no more than the current SSI rate for a single individual less the personal needs allowance ~~a minimum of \$90~~ for room and board charges. Any income remaining after deduction of the personal needs allowance ~~protected minimum of \$90~~ and room and board charges shall be applied first towards medical expenses not covered under the Department's Medical Assistance Program. Any income remaining after that shall be applied to the charges for SLP services paid by the Department.
- d) Double Occupancy: In the event a Medicaid eligible resident chooses to share an

apartment, the Medicaid resident of an SLP shall be allotted a personal needs allowance in an amount listed at 89 IAC 120.61(f)(2)(C)~~minimum of \$90 per month~~ as a deduction from his or her income as a protected amount for personal use. The SLP may charge each Medicaid resident no more than the resident's share of the current SSI rate for a couple less the personal needs allowance~~a minimum of \$90~~ for room and board charges. The room and board rate for two Medicaid eligible individuals sharing an apartment cannot exceed the SSI rate for a married couple even if the two individuals sharing an apartment are unrelated. Any income of an individual remaining after deduction of the personal needs allowance~~protected minimum of \$90~~ and room and board charges shall be applied first towards that individual's medical expenses not covered under the Department's Medical Assistance Program. Any income of an individual remaining after that shall be applied to that individual's charges for SLP services paid by the Department. If one, or both, of the individuals sharing an apartment is not Medicaid eligible, the SLP may negotiate its own rate with the non-Medicaid individual or individuals.

- e) The room and board charge for Medicaid residents shall only be increased when the SSI amount is increased. Any room and board charge increase shall not exceed the amount of the SSI increase.
- f) Payment shall be made by the Department for up to 30 days per State fiscal year during a Medicaid resident's temporary absence from the SLP when the absence is due to situations such as hospitalizations or vacations. The resident shall continue to be responsible for room and board charges during any absence. Involuntary discharge criteria relating to temporary absence are found at Section 146.255(b) and (d)(7). Nursing facilities that have a distinct part certified as an SLP shall consider converted beds in the nursing facility's licensed capacity when calculating the 93 percent occupancy level for bed reserve payments pursuant to 89 Ill. Adm. Code 140.523.
 - 1) The day a resident is transferred to the hospital is the first day of the temporary absence.
 - 2) For all other temporary absences, except a long-term care admission, the day after resident leaves the SLP is the first day of the temporary absence.
 - 3) The day before resident returns to the SLP is the last day of the temporary absence.
 - 4) The Department does not pay for temporary absence due to admission to a long-term care facility. In this instance, an SLP shall discharge the

resident from the Department's database. An SLP may choose to hold an apartment while a resident is in a long-term care facility.

- 5) By agreement between the SLP and a resident, an SLP may continue to hold an apartment when a resident has exceeded the 30 days payable by the Department.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section 146.550 Reimbursement for Services

- a) Effective for dates of service on and after July 1, 2014, services provided under Section 146.540(a)(1) shall be reimbursed in accordance with 89 Ill. Adm. Code 140.474(c).
- b) Services provided under Section 146.540(a)(2) shall be reimbursed on a per diem basis at the lower of the Children's Community-Based Health Care Center's usual and customary charge to the public or at the Department's statutory rate of ~~\$1,300~~~~\$950~~. Payments at this rate are exempt from the 2.7% rate reduction required under Section 5-5e of the Public Aid Code.
- c) Services provided under Section 146.540(b)(1) shall be reimbursed in accordance with 89 Ill. Adm. Code 140.474(c).
- d) Effective for dates of service on or after July 1, 2012, reimbursement rates paid under this Section shall be reduced by 2.7% from the rates in effect on June 30, 2012.

(Source: Amended at 50 Ill. Reg. _____, effective _____)