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State/Territory Name: Kentucky

State Plan Amendment (SPA) #: 15-0003

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop 82-26-12
Baltimore, MD 21244-1850



Financial Management Group

FEB 10 2016

Ms. Stephen P. Miller, Commissioner
Commonwealth of Kentucky
Cabinet for Health and Family Services
Department of Medicaid Services
275 East Main Street, 6 W-A
Frankfort, KY 40621

RE: State Plan Amendment (SPA) 15-003

Dear Ms. Miller:

We have reviewed the proposed amendment to Attachments 4.19-A, 3.1-A and 3.1-B of your Medicaid state plan submitted under transmittal number (TN) 15-003. Effective October 1, 2015 this amendment adds reserve bed and therapeutic leave days as a reimbursable service in psychiatric residential treatment facilities (PRTF). The amendment also revises the coverage sections to include covered services in the PRTFs.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. We have found that the proposed changes in payment methodology comply with applicable requirements and therefore have approved them with an effective date of October 1, 2015. We are enclosing the CMS-179 and the amended approved plan pages.

If you have any questions, please call Stanley Fields at (502) 223-5332.

Sincerely,

//s//

Kristin Fan
Director

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: 15-003	2. STATE Kentucky
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
FOR: HEALTH CARE FINANCING ADMINISTRATION		
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE October 1, 2015	

5. TYPE OF PLAN MATERIAL (*Check One*):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION:	7. FEDERAL BUDGET IMPACT: a. FFY 2015 Budget Neutral b. FFY 2016 Budget Neutral
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Att. 3.1-A Page 7.8.3 – 7.8.4-10 Att. 3.1-B Page 33.2 – Page 33.13 Att. 4.9-A, Page 35-35-2 Att. 4.19-B, Page 20.12(i) – Page 20-12(m)	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): Same Except Att. 3.1-A, Page 7.8.4.4 – Page 7.8.4.10 – New Att. 3.1-B, Page 33.3 – Page 33.13 - New Att. 4.19-A, Page 35.3 - New Att 4.19-B, Page 20.12(i) – Page 20-12(m) - New

10. SUBJECT OF AMENDMENT:

The purpose of this SPA is update the inpatient Psychiatric Residential Treatment Facility (PRTF) – very limited information in Attachment 3.1-A and B sections. We are also including outpatient treatment services to the PRTFs.

11. GOVERNOR'S REVIEW (*Check One*):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED: Review delegated
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED to Commissioner, Department for Medicaid
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL Services

12. SIGNATURE OF STATE AGENCY OFFICIAL: //s//	16. RETURN TO: Department for Medicaid Services 275 East Main Street 6W-A Frankfort, Kentucky 40621
13. TYPED NAME: Lisa D. Lee	
14. TITLE: Commissioner, Department for Medicaid Services	
15. DATE SUBMITTED: 7/20/15	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 07/30/15	18. DATE APPROVED: 02-10-16
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: 10-01-15	20. SIGNATURE OF REGIONAL OFFICIAL: //s//
21. TYPED NAME: Kristin Fan	22. TITLE: Director, FMG

23. REMARKS: Approved with the following changes to 8, 9 and 10 as authorized by the state agency.

Block # 8 changed to read: Atch 3.1-B pages 33.2, 33.3, 33.4 and 33.5; Atch 3.1-A pages 7.8.3, 7.8.4 and 7.8.4.1; Atch 4.19-A pages 35, 35.1, 35.2 and 35.3.

Block # 8 changed to read: Atch 3.1-B pages 33.2; Atch 3.1-A pages 7.8.3, 7.8.4 and 7.8.4.1; Atch 4.19-A pages 35, 35.1 and 35.2.

Block # 10 changed to read: The purpose of this SPA is update the inpatient Psychiatric Residential Treatment Facility (PRTF)- very limited information in Attachment 3.1-A and B sections.

16. Psychiatric Residential Treatment Facility Services for Level I and II for Individuals Under 21 Years of Age

A. Covered Inpatient Admissions

The following benefits and limitations are applicable for inpatient psychiatric facility services for individuals under 21 years of age (or under 22 years of age if an inpatient in the facility on the individual's 21st birthday):

Kentucky complies with all PRTF requirements outlined at 42 CFR 440.160; 42 CFR 483.352; 42 CFR Part 441, Subpart D and Part 483, Subpart G

Subject to the individual's plan of care, the following services are furnished to children in a PRTF, pursuant to the Inpatient Psychiatric Services to Individuals under Age 21 benefit, provided services are under the direction of a physician. Each patient's treatment plan shall specify the amount and frequency of services needed;

- 1) A covered admission for a Level I PRTF shall be prior authorized by a review agency.
- 2) A covered admission for a Level II PRTF shall be prior authorized;

B. PRTF Covered Inpatient Services.

- 1) The following services shall be available to all eligible recipients:
 - a. Diagnostic and assessment services;
 - b. Treatment plan development, review, or revision;
 - c. Psychiatric services;
 - d. Nursing services which shall be provided in compliance with 902 KAR 20:320;
 - e. Medication which shall be provided in compliance with 907 KAR 1:019;
 - f. Evidence-based treatment interventions;
 - g. Individual therapy which shall comply with 902 KAR 20:320;
 - h. Family therapy or attempted contact with family which shall comply with 902 KAR 20:320;
 - i. Group therapy which shall comply with 902 KAR 20:320;
 - j. Individual and group interventions that shall focus on additional and harmful use or abuse issues and relapse prevention if indicated;
 - k. Substance abuse education;
 - l. Activities that:
 - (1) Support the development of an age-appropriate daily living skill including positive behavior management or support; or
 - (2) Support and encourage the parent's ability to re-integrate the child into the home;
 - m. Emergency interventions pursuant to the restraint and seclusion requirement at:
 - (1) 42 C.F.R. 483.350 through 376; and
 - (2) 902 KAR 20:320;
 - n. Consultation with other professionals including case managers, primary care professionals, community support workers, school staff, or others;
 - o. Educational activities; or
 - p. Non-medical transportation services as needed to accomplish objectives;

16. Psychiatric Residential Treatment Facility Services for Level I and II for Individuals Under 21 Years of Age
- 2) A Level I PRTF service listed in a above shall be:
 - a. Provided under the direction of a physician;
 - b. If included in the recipient's treatment plan, described in the recipient's current treatment plan;
 - c. Medically necessary; and
 - d. Clinically appropriate pursuant to the criteria established in 907 KAR 3:130;
 - 3) A Level I PRTF service listed in g, h, i, k, or m. above shall be provided by a qualified mental health professional, behavioral health professional, or behavioral health professional under clinical supervision; or
 - 4) A Level II PRTF service listed shall be:
 - a. Provided under the direction of a physician;
 - b. If included in the recipient's treatment plan, described in the recipient's current treatment plan;
 - c. Provided at least once a week:
 - (1) Unless the service is necessary twice a week, in which case the service shall be provided at least twice a week; or
 - (2) Except for diagnostic and assessment services which shall have no weekly minimum requirement;
 - d. Medically necessary; and
 - e. Clinically appropriate pursuant to the criteria established in 907 KAR 3:130.
 - 5) A Level II PRTF service listed in (7), (8), (9), (11), or (13) shall be provided by a qualified mental health professional, behavioral health professional, or behavioral health professional under clinical supervision.
- C. Durational Limit, Re-evaluation, and Continued Stay for Inpatient Admissions.
- 1) A recipient's stay, including the duration of the stay, in a Level I or II PRTF shall be subject to the department's approval.
 - 2) A recipient in a Level I PRTF shall be re-evaluated at least once every thirty (30) days to determine if the recipient continues to meet Level I PRTF patient status criteria.
 - 3) A Level I PRTF shall complete a review of each recipient's treatment plan at least once every thirty (30) days.
 - 4) If a recipient no longer meets Level I PRTF patient status criteria, the department shall only reimburse through the last day of the individual's current approved stay.
 - 5) A Level II PRTF shall complete by no later than the third (3rd) business day following an admission, an initial review of services and treatment provided to a recipient which shall include:

16. Psychiatric Residential Treatment Facility Services for Level I and II for Individuals Under 21 Years of Age

D. Reserved Bed and Therapeutic Pass Days for Inpatient Admissions

Definition:

An acute care hospital bed reserve day shall be a day when a recipient is temporarily absent from a Level I or II PRTF due to an admission to an acute care hospital. A state psychiatric hospital bed reserve day, private psychiatric hospital bed reserve day, or psychiatric bed in an acute care hospital bed reserve day, respectively, shall be a day when a recipient is temporarily absent from a Level I or II PRTF due to receiving psychiatric treatment in a state psychiatric hospital, private psychiatric hospital, or psychiatric bed in an acute care hospital respectively. A therapeutic pass day shall be a day when a recipient is temporarily absent from a Level I or II PRTF for a therapeutic purpose that is:

- a. Stated in the recipient's treatment plan; and
 - b. Approved by the recipient's treatment team.
- 1) The department shall cover a bed reserve day for an acute hospital admission, a state psychiatric hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital for a recipient's absence from a Level I or II PRTF if the recipient:
 - a. Is in Medicaid payment status in a Level I or II PRTF;
 - b. Has been in the Level I or II PRTF overnight for at least one (1) night;
 - c. Is reasonably expected to return requiring Level I or II PRTF care; and
 - d. Has not exceeded the bed reserve day limit of 5 days per calendar year in aggregate for any combination of bed reserve days associated with an acute care hospital admission, a state psychiatric hospital admission, a private psychiatric hospital admission or an admission to a psychiatric bed in an acute care hospital.
 - 2) Based on medical necessity, with a prior authorization, the five (5) day limit may be extended.
 - 3) The department shall cover a therapeutic pass day for a recipient's absence from a Level I or II PRTF if the recipient:
 - a. Is in Medicaid payment status in a Level I or II PRTF;
 - b. Has been in the Level I or II PRTF overnight for at least one (1) night;
 - c. Is reasonably expected to return requiring Level I or II PRTF care; and
 - d. Has not exceeded the therapeutic pass day limit established; or
 - e. Received an exception to the limit.
 - f. The annual therapeutic pass day limit per recipient shall be fourteen (14) days per calendar year.
 - g. The department shall allow a recipient to exceed the limit established if the department determines that an additional therapeutic pass day is in the best interest of the recipient.

16. Psychiatric Residential Treatment Facility Services for Level I and II for Individuals Under 21 Years of Age

E. Exclusions and Limitations in Coverage for Inpatient Admissions.

- 1) The following shall not be covered as Level I or II PRTF services:
 - a. Pharmacy services, which shall be covered in accordance with Kentucky Medicaid's Pharmacy Program;
 - b. Durable medical equipment, which shall be covered in accordance with Attachment 3.1-A, Page 13 of the Medicaid State Plan;
 - c. Hospital emergency room services, which shall be covered in accordance with Attachment 3.1-A, Page 7.1.1(a);
 - d. Acute care hospital inpatient services, which shall be covered in accordance with Attachment 3.1-A, Page 7.1.1 – Page 7.1.1(a);
 - e. Laboratory and radiology services, which shall be covered in accordance with Attachment 3.1-A, Page 7.1.1(b);
 - f. Dental services, which shall be covered in accordance with Attachment 3.1-A, Page 7.4.1;
 - g. Hearing and vision services, which shall be covered in accordance with Attachment 3.1-A, Page 7.1.3; or
 - h. Ambulance services, which shall be covered in accordance with Attachment 3.1-A, Page 7.9.1.
- 2) A Level I or II PRTF shall not charge a recipient or responsible party representing a recipient any difference between private and semiprivate room charges.

to costs, volume, or proportion of services provided to patients eligible for medical assistance and to low income patients.

(9) Payments for Inpatient Psychiatric Facility Services for Individuals Under 21 Years of Age

- A. Covered inpatient psychiatric facility services for individuals under 21 years of age provided in psychiatric hospitals are paid in accordance with the provisions described in Attachment 4.19-A
- B. Covered inpatient psychiatric facility services for individuals under 21 years of age provided in licensed psychiatric resident treatment facilities (PRTFs) are paid in accordance with the following:

Level I PRTF

To be reimbursable under the Medicaid Program, Level I PRTF services and associated costs, respectively, shall be provided to or associated, respectively, with a recipient receiving Level I PRTF services in accordance with Attachment 3.1-A, Section 16 – Psychiatric Residential Treatment Facility Services for Level I and II for Individuals under 21 years of age.

- 1 The department shall reimburse for Level I PRTF services and costs for a recipient not enrolled in a managed care organization at the lesser of a per diem rate of \$280.09; or the usual and customary charge
- 2 The per diem rate shall be increased each biennium by 2.22 percent.
- 3 The per diem or the usual and customary charge if less than the per diem rate, shall represent the total Medicaid reimbursement for Level I PRTF services and costs:
 - (a) Including all care and treatment costs;
 - (b) Including costs for all ancillary services;
 - (c) Including capital costs;
 - (d) Including room and board costs; and
 - (e) Excluding the costs of drugs as drugs shall be covered and reimbursed under Kentucky's pharmacy program in accordance with Attachment 3.1-A and Attachment 4.19-A.

Level II PRTF

To be reimbursable under the Medicaid program, Level II PRTF services and associated costs, respectively, shall be provided to or associated, respectively, with a recipient receiving Level II PRTF services in accordance with Attachment 3.1-A, Section 16 – Inpatient Psychiatric Residential Treatment Facility Services for Level I and II for Individuals under 21 years of age.

- 1 The department shall reimburse a per diem rate as follows for Level II PRTF services and costs for a recipient not enrolled in a managed care organization:
 - (a) \$345 for Level II PRTF services to a recipient who meets the rate group one (1) criteria described below;
 - (b) \$365 for Level II PRTF services to a recipient who meets the rate group two (2) criteria described below;
 - (c) \$385 for Level II PRTF services to a recipient who meets the rate group three (3) criteria described below; or
 - (d) \$405 for Level II PRTF services to a recipient who meets the rate group four (4) criteria described below.

2 Rate Groups

- (a) Rate group one (1) criteria shall be for a recipient who:
1. Is twelve (12) years of age or younger;
 2. Is male or female; and
 3. Is sexually reactive; or
 - (i) Has a severe and persistent aggressive behavior;
 - (ii) Does not have an intellectual or a developmental disability; and
 - (iii) Has an intelligence quotient higher than seventy (70).
- (b) Rate group two (2) criteria shall be for a recipient who:
1. Is twelve (12) years of age or younger;
 2. Is male or female; and
 3. Is sexually reactive; and
 - (i) Has a severe and persistent aggressive behavior;
 - (ii) Does not have an intellectual or a developmental disability; and
 - (iii) Has an intelligence quotient higher than seventy (70).
- (c) Rate group three (3) criteria shall be for a recipient who:
1. Is thirteen (13) years of age or older;
 2. Is male or female; and
 3. Is sexually reactive; or
 - (i) Has a severe and persistent aggressive behavior;
 - (ii) Does not have an intellectual or a developmental disability; and
 - (iii) Has an intelligence quotient higher than seventy (70).
- (d) Rate group four (4) criteria shall be for a recipient who:
1. Is thirteen (13) years of age or older;
 2. Is male or female; and
 3. Is sexually reactive; and
 - (i) Has a severe and persistent aggressive behavior;
 - (ii) Does not have an intellectual or a developmental disability; and
 - (iii) Has an intelligence quotient higher than seventy (70).
- (e) Rate group four (4) criteria also includes the following for a recipient who:
1. Is under twenty-one (21) years of age;
 2. Is male or female; and
 3. Is sexually reactive; or
 - (i) Has a severe and persistent aggressive behavior;
 - (ii) Has an intellectual or a developmental disability; and
 - (iii) Has an intelligence quotient lower than seventy (70).

C. The per diem rates referenced above, or the usual and customary charge if less than the per diem rate, shall represent the total Medicaid reimbursement for Level II PRTF services and costs:

- (a) Including all care and treatment costs;
- (b) Including costs for all ancillary services;
- (c) Including capital costs;
- (d) Including room and board costs; and
- (e) Excluding the costs of drugs as drugs shall be reimbursed via the department's pharmacy program

- D.
- D. The department shall use the evaluation, review, and analysis to determine if an adjustment to the Level II PRTF reimbursement would be appropriate.
- E. (1) The department's reimbursement for a bed reserve day which qualifies as a bed reserve day for a recipient not enrolled in a managed care organization shall be:
- (a) Seventy-five (75) percent of the rate established if the Level I or II PRTF's occupancy percent is at least eighty-five (85) percent; or
 - (b) Fifty (50) percent of the rate established if the Level I or II PRTF's occupancy percent is less than eighty-five (85) percent.
 - (c) The department shall cover a bed reserve day for an acute hospital admission, a state mental hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital for a recipient's absence from a Level I or II PRTF if the recipient:
 - i. Is in Medicaid payment status in a Level I or II PRTF;
 - ii. Has been in the Level I or II PRTF overnight for at least one (1) night;
 - iii. Is reasonably expected to return requiring Level I or II PRTF care; and
 - iv. Has not exceeded the bed reserve day limit of 5 days per calendar year in aggregate for any combination of bed reserve days associated with an acute care hospital admission, a state mental hospital admission, a private psychiatric hospital admission or an admission to a psychiatric bed in an acute care hospital
- (2) The department's reimbursement for a therapeutic pass day which qualifies as a therapeutic pass day for a recipient not enrolled in a managed care organization shall be:
- (a) 100 percent of the rate established if the Level I or II PRTF's occupancy percent is at least fifty (50) percent; or
 - (b) Fifty (50) percent of the rate established if the Level I or II PRTF's occupancy percent is below fifty (50) percent.
 - (c) The department shall cover a therapeutic pass day for a recipient's absence from a Level I or II PRTF if the recipient:
 - i. Is in Medicaid payment status in a Level I or II PRTF;
 - ii. Has been in the Level I or II PRTF overnight for at least one (1) night;
 - iii. Is reasonably expected to return requiring Level I or II PRTF care; and
 - iv. Has not exceeded the therapeutic pass day limit established; or
 - v. Received an exception to the limit.
 - vi. The annual therapeutic pass day limit per recipient shall be fourteen (14) days per calendar year.
 - vii. The department shall allow a recipient to exceed the limit established with a prior authorization based on medical necessity and reviews with the providers of service.
- (3) (a) A Level I or II PRTF's occupancy percent shall be based on a midnight census.
- (b) An absence from a Level I or II PRTF that is due to a bed reserve day for an acute hospital admission, a state mental hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital shall count as an absence for census purposes.
- (c) An absence from a Level I or II PRTF that is due to a therapeutic pass day shall not count as an absence for census purposes.

(10) Reimbursement for Out-of-state Hospitals.

- A. As of October 15, 2007, an acute care out-of-state hospital shall be reimbursed for an inpatient acute care service on a fully-prospective per discharge basis. The total per discharge reimbursement shall be the sum of a DRG operating and capital base payment amount, and, if applicable, a cost outlier payment amount.
1. The all-inclusive DRG payment amount:
 - a. Shall be based on the patients diagnostic category; and
 - b. For each discharge by multiplying a hospital's DRG base rate by the Kentucky-specific DRG relative weight minus the adjustment mandated for in-state hospitals.
 2. Out-of-State base rates. The base rate for out-of-state hospitals shall be determined the same as an in-state base rate in accordance with section (2)A., subsections 5. through 11. of this attachment minus:

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- 2) A Level I PRTF service listed in a above shall be:
 - a. Provided under the direction of a physician;
 - b. If included in the recipient's treatment plan, described in the recipient's current treatment plan;
 - c. Medically necessary; and
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 - 3) A Level I PRTF service listed in g, h, i, k, or m. above shall be provided by a qualified mental health professional, behavioral health professional, or behavioral health professional under clinical supervision; or
 - 4) A Level II PRTF service listed shall be:
 - a. Provided under the direction of a physician;
 - b. If included in the recipient's treatment plan, described in the recipient's current treatment plan;
 - c. Provided at least once a week:
 - (1) Unless the service is necessary twice a week, in which case the service shall be provided at least twice a week; or
 - (2) Except for diagnostic and assessment services which shall have no weekly minimum requirement;
 - d. Medically necessary; and
 - e. Clinically appropriate pursuant to the criteria established in 907 KAR 3:130.
 - 5) A Level II PRTF service listed in (7), (8), (9), (11), or (13) shall be provided by a qualified mental health professional, behavioral health professional, or behavioral health professional under clinical supervision.
- C. Durational Limit, Re-evaluation, and Continued Stay for Inpatient Admissions.
- 1) A recipient's stay, including the duration of the stay, in a Level I or II PRTF shall be subject to the department's approval.
 - 2) A recipient in a Level I PRTF shall be re-evaluated at least once every thirty (30) days to determine if the recipient continues to meet Level I PRTF patient status criteria.
 - 3) A Level I PRTF shall complete a review of each recipient's treatment plan at least once every thirty (30) days.
 - 4) If a recipient no longer meets Level I PRTF patient status criteria, the department shall only reimburse through the last day of the individual's current approved stay.
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16. Psychiatric Residential Treatment Facility Services for Level I and II for Individuals Under 21 Years of Age

D. Reserved Bed and Therapeutic Pass Days for Inpatient Admissions

Definition:

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 - b. Approved by the recipient's treatment team.
- 1) The department shall cover a bed reserve day for an acute hospital admission, a state psychiatric hospital admission, a private psychiatric hospital admission, or an admission to a psychiatric bed in an acute care hospital for a recipient's absence from a Level I or II PRTF if the recipient:
 - a. Is in Medicaid payment status in a Level I or II PRTF;
 - b. Has been in the Level I or II PRTF overnight for at least one (1) night;
 - c. Is reasonably expected to return requiring Level I or II PRTF care; and
 - d. Has not exceeded the bed reserve day limit of 5 days per calendar year in aggregate for any combination of bed reserve days associated with an acute care hospital admission, a state psychiatric hospital admission, a private psychiatric hospital admission or an admission to a psychiatric bed in an acute care hospital.
 - 2) Based on medical necessity, with a prior authorization, the five (5) day limit may be extended.
 - 3) The department shall cover a therapeutic pass day for a recipient's absence from a Level I or II PRTF if the recipient:
 - a. Is in Medicaid payment status in a Level I or II PRTF;
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 - c. Is reasonably expected to return requiring Level I or II PRTF care; and
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 - e. Received an exception to the limit.
 - f. The annual therapeutic pass day limit per recipient shall be fourteen (14) days per calendar year.
 - g. The department shall allow a recipient to exceed the limit established if the department determines that an additional therapeutic pass day is in the best interest of the recipient.