

**CHAPTER 4310. CLIENT LIABILITY—STATE
MH/ID FACILITIES**

GENERAL PROVISIONS

- Sec.
- 4310.1. Legal base.
- 4310.2. Purpose.
- 4310.3. Applicability.
- 4310.4. Definitions.

PAYORS RESPONSIBLE FOR THE COSTS OF SERVICE

- 4310.5. Sequential order of payors and persons liable for costs of service.

MAXIMUM LIABILITY FOR SERVICES PROVIDED

- 4310.6. Maximum liability—payors/liable persons.

DETERMINING LIABILITY AND ASSESSMENTS

- 4310.7. Determining client monthly liability.
- 4310.8. Benefits.
- 4310.9. Working client income.
- 4310.10. Multiple income sources.
- 4310.11. Capital assets.
- 4310.12. Irrevocable/court-ordered burial accounts and restricted trust accounts.
- 4310.13. Determining legally liable relative monthly liability.

BILLING AND COLLECTION

- 4310.14. Billing legally liable relatives/clients and other liable persons.
- 4310.15. Collections.
- 4310.16. Frequency of redetermination.
- 4310.17. Abatement or modification of liability.
- 4310.18. Debt payments not included when considering liability abatement/modification requests.
- 4310.19. Criteria for abatement or modification in hardship cases.
- 4310.20. Clinical abatement or modification of liability.
- 4310.21. Departmental review procedure.
- 4310.22. Appeals.

4310-1

4310.23. Delinquent accounts.

4310.24. Write-off requests.

Authority

The provisions of this Chapter 4310 issued under sections 201(2) and 504(d) of the Mental Health and Mental Retardation Act of 1966 (50 P.S. §§ 4201(2) and 4504(d)), unless otherwise noted.

Source

The provisions of this Chapter 4310 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149, unless otherwise noted.

GENERAL PROVISIONS

§ 4310.1. Legal base.

The legal base for this chapter is sections 201(2) and 504(d) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and 4504(d)).

Authority

The provisions of this § 4310.1 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.1 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (251374).

§ 4310.2. Purpose.

This chapter establishes a sequential order of payors or persons liable and responsible for costs of service or both, and the maximum liability for those services.

Source

The provisions of this § 4310.2 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.3. Applicability.

This chapter applies to State mental hospitals and State intellectual disability centers. Liability for services received at these facilities is determined according to this chapter.

Authority

The provisions of this § 4310.3 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.3 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (251374).

§ 4310.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Abatement—The reduction by the Department of an assessed liability amount to zero for a specified period.

Assets—Any resource available to the client to meet the cost of services, except real estate constituting the home residence of the client, his spouse or dependent children.

Benefit—A payment or other assistance given by an insurance company, mutual retirement fund, or public or private agency.

Benefit recipient—A client receiving income in the form of a benefit for which no services have been rendered.

Client—A patient/resident of a State mental hospital or State intellectual disability center.

Department—The Department of Human Services of this Commonwealth.

Head of household—The adult member of the household who is recognized by other family members as the primary household representative.

Home maintenance exemption—Documented and verified expenses currently being paid and necessary to maintain a home or rental residence, which includes mortgage or rental payments, utility bills and taxes on the home residence during the period of hospitalization.

Household—A group of persons living together, consisting of the head of household and all other household members for whom the head of household has a legal responsibility to provide support.

Household member—A person, including the head of household, for whom the head of household is liable.

IRS tax form—The forms filed by the household for Federal income tax purposes—most commonly Forms 1040 and 1040A.

Institutional collections officer—The Department's employee responsible for applying for all resources available to meet the costs of services and establishing client and legally liable relative liability.

Intellectual disability professional—A case manager or an individual who is responsible for the clinical treatment program of the resident.

LLR—Legally liable relative—A parent or spouse responsible for the costs of service for a client in a State mental hospital or State intellectual disability center, or a client who is legally responsible for the support of his spouse or dependent children.

Liability—The portion of the cost of service for which the client or legally liable relative is required to pay.

Liable person—A person who has responsibility to pay the assessed liability. Liable persons are the client and the legally liable relative. In the event that assets, income, or benefits, or both, of the client or legally liable relative are controlled by a representative payee, a guardian of the estate, or trustee, these persons are responsible for assessments made against assets, income, or benefits, or both, belonging to the client or legally liable relative.

MAMIS—The Medical Assistance Management Information System responsible for reimbursement to facilities providing care to Medical Assistance eligible clients.

Maximum liability—The most which a liable person is required to pay toward the costs of service.

Mental health professional—An individual practicing in a generally recognized clinical discipline including, but not limited to, psychiatry, social work, psychology, nursing, rehabilitation or activity therapies, who has a graduate degree and clinical experience.

Modification—A reduction of an assessed liability, by the Department, to an amount greater than zero, but less than the original amount for a specified period.

Nonresident property—Real property is considered “nonresident” if the property:

- (i) Is not used as a home by the client.
- (ii) Has been the home of the client or his spouse but has not been used for 6 consecutive months and there appears to be little likelihood that either will return to it.

Resident property—A client’s real property, used as the client’s primary residence, during the first 6 months of institutionalization.

Authority

The provisions of this § 4310.4 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.4 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial pages (251374) and (375697) to (375698).

Notes of Decisions

Petitioner, who received psychiatric care after his discharge from a State hospital in a clinical abatement proceeding was not eligible for abatement because he was not a “client” as defined by the Department’s regulations, which requires the patient to be a resident of the State Hospital at the time of treatment. *Weychert v. Department of Public Welfare*, 551 A.2d 605 (Pa. Cmwlth. 1988).

PAYORS RESPONSIBLE FOR THE COSTS OF SERVICE**§ 4310.5. Sequential order of payors and persons liable for costs of service.**

- (a) The sequential order of payors responsible for the costs of service is:
 - (1) Medicare.
 - (2) Third-party insurance.
 - (3) Client/LLR.
 - (4) MA.
- (b) The sequential order of persons liable for costs of service is:
 - (1) The client, based on income and/or assets.
 - (2) The client's spouse, for 120 days of continuous inpatient hospitalization, based on income.
 - (3) The client's parents, if the client is under the age of 18 and not eligible for SSI, based on income.

Source

The provisions of this § 4310.5 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

MAXIMUM LIABILITY FOR SERVICES PROVIDED**§ 4310.6. Maximum liability—payors/liable persons.**

The maximum liability for services provided is established by the institutional collections officer for both payors and liable persons within the following:

- (1) *Maximum charge to Medicare.*
 - (i) The maximum monthly charge to Medicare shall be the product of the per diem rate multiplied by the number of client days.
 - (ii) Medicare reimbursement includes only covered charges and shall be accepted by the facility as payment in full for the number of Medicare-eligible days billed, excluding deductibles and coinsurances.
 - (iii) If Medicare deductibles and coinsurances have been deducted from the Medicare reimbursement, the deductibles and coinsurances shall be billed to MAMIS if the client is Medical Assistance eligible.
 - (iv) If the client is not Medical Assistance eligible, deductibles and coinsurances are the responsibility of the client or LLR up to his maximum liability.
- (2) *Maximum charges to third-party payors.*
 - (i) The maximum charge to third-party payors shall be the product of the per diem rate multiplied by the number of client days.
 - (ii) If the costs of services are to be paid in whole or in part by a third-party payor, that resource must be fully used. If the third-party payor coverage is limited, any costs of services in excess of the payment are the respon-

sibility of the client and LLR up to his maximum liability if these costs cannot be billed to another third party or to MAMIS.

(iii) If the sum of third-party payments and client/LLR liability exceed the total charges, the overpayments shall be refunded to the client/LLR if the imposition of liability resulted in the overpayment, or to the third-party payor, if no client/LLR liability have been established.

(3) *Legally liable relative maximum liability.*

(i) LLR liability for services provided to a client is based on the LLR's monthly discretionary income. LLR liability may not exceed the facility monthly per diem rate.

(ii) LLR liability for services to a client is imposed in excess of amounts paid by third-party payors or other agencies, but may not exceed the LLR's maximum monthly liability or the facility monthly per diem rate.

(4) *Spouse for spouse liability.*

(i) The liability of one spouse for services to the other is limited to 120 days of continuous inpatient care.

(ii) If the client is discharged for 120 consecutive days and is subsequently readmitted after 120 days to the facility, spouse for spouse liability recurs.

(iii) If there is court-ordered support, the amount of the court order must be considered the maximum liability for the costs of service.

(5) *Parental liability.*

(i) Parental liability is limited to the cost of services for children under the age of 18 who are not Supplemental Security Income (SSI) eligible. If a child under 18 years of age becomes eligible for SSI, parental liability ceases.

(ii) If there is a court order for support, the amount of the court order must be considered the maximum liability for the costs of services.

(6) *Client/resident maximum liability.*

(i) Maximum client liability is based on income or assets of the client, or both, in excess of amounts paid by third party payors or other agencies, up to the per diem rate established for the facility. Monthly charges for services provided to mental health and intellectual disability clients may not exceed the product of the per diem rate multiplied by the number of days in the month.

(ii) If the client is responsible for maintaining a spouse or children, client liability is determined by the scale for LLR monthly liability.

(7) *Charges equal to maximum liability.*

(i) If the cost of service (that is, client days multiplied by the per diem rate) exceeds the maximum liability, the client shall be billed for the amount of the maximum liability.

(ii) If the cost of service (that is, client days multiplied by the per diem rate) is less than the client's maximum liability, the client shall be billed for the amount of the maximum liability.

(iii) If the cost of service (that is, client days multiplied by the per diem rate) exceeds the LLR's maximum liability, the LLR shall be billed for the amount of the maximum liability.

(iv) If the cost of service (that is, client days multiplied by the per diem rate) is less than the LLR's maximum liability, the LLR shall be billed for the amount of the maximum liability.

(8) *Maximum charges for services to MAMIS.*

(i) The maximum charge for service billed to MAMIS is the product of the per diem rate times the client days in the month. If client and/or LLR liability has been established by the County Assistance Office, the maximum monthly billing to MAMIS must be the monthly rate minus the client/LLR liability.

(ii) No portion of the charges to MAMIS except the liability imposed on the client/LLR by Medical Assistance may be billed to the client or his LLR.

(iii) Institutional collections officers shall compute and bill client/LLR liability based on this chapter.

(iv) The difference between the Medical Assistance liability assessment and the assessment determined within this chapter may not be billed or collected from the client/LLR or invoiced to MAMIS.

Authority

The provisions of this § 4310.6 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.6 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial pages (251377) to (251379).

DETERMINING LIABILITY AND ASSESSMENTS

§ 4310.7. Determining client monthly liability.

The extent of a client's liability for costs of services provided over and above that paid by third-party payors, other agencies, or LLR's is determined as follows:

(1) During the first six months of care, clients have their liability determined in the following manner:

(i) The client's liability is all income less \$60 per month personal use monies, except when the client is maintaining a home to which he plans to

return on discharge from the facility. A liability exemption to maintain a home is allowable six months from the date service began.

(A) The home could be owned by the client or rented from a landlord. If rented, the client must continue to pay the rent, utilities, and other expenses associated with maintaining a property or rental property. The roomer or roomer/boarder situation would also be included if the client continues to pay the landlord to hold the room during the period of hospitalization, not to exceed 6 months.

(B) If the home maintenance exemption is applied, the client's liability is all income less the home maintenance exemption and \$60 a month personal use monies.

(i) If the client is responsible for paying insurance premiums obtained prior to institutionalization, the amount of these premiums are exempted. Liability would be all income less the insurance premiums and \$60 per month personal use monies.

(iii) If the client is receiving a veteran's benefit for which an institutional award request has been acted upon by the Veteran's Administration, the amount exempted for personal use is that portion specified by the Veteran's Administration.

(2) Following the first 6 months of care, all income is considered available to meet the cost of care except:

(i) \$60 monthly income for personal care items.

(ii) Veteran's benefits for which an institutional award request has been acted upon by the Veteran's Administration. The amount exempted is that portion of the benefit the Veteran's Administration specifies is to be reserved for the beneficiary's personal use.

(iii) Health insurance or life insurance premiums, or both, obtained prior to hospitalization.

(iv) The patient's resident property, household furnishings, clothing, personal effects.

(v) \$1,500 combined value of other real or personal property or both. "Other" includes accumulated reserves in institutional representative payee/guardian or client accounts or both that are not legally restricted for the patient's personal future needs. If these limits are exceeded, any amount over the limit is available to meet the costs of service.

Source

The provisions of this § 4310.7 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.8. Benefits.

When a client receives institutional services and is the recipient of benefits such as Social Security, veteran's benefits, retirement pensions, and the like, the

first \$60 is disregarded for the client's personal needs. All income, including interest earned, over \$60 is assessed for services provided. Personal use funds may be conserved for his use up to a maximum of \$1,500. When the conserved fund maximum is reached, the full amount of the benefit is assessed, less \$25 per month personal use monies. If, after the assessment, the conserved fund level still exceeds the maximum of \$1,500, the excess income over \$1,500 is assessed. If the conserved fund account falls below \$1,500, the assessment returns to all income over \$60 until it again reaches \$1,500.

Source

The provisions of this § 4310.8 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

Notes of Decisions

The Department's regulation which allocates the first \$60 of a SSD benefit for the patient's personal use and the rest to the Department did not violate petitioner's right to equal protection based upon a comparison to Federal regulations in representative payee cases in which a representative payee is appointed to manage SSD benefits for an incompetent beneficiary according to that beneficiary's needs, as the petitioning beneficiary was not an incompetent and was not accountable to anyone or any regulation as in a representative payee case; therefore a rational basis for such classifications exists. *Weychert v. Department of Public Welfare*, 551 A.2d 605 (Pa. Cmwlth. 1988).

§ 4310.9. Working client income.

When a client residing in a State mental hospital or State intellectual disability center receives income for services rendered at sheltered workshops or other employment, 50% of all income over \$65 per month is assessed for his cost of service provided. Any amount less than \$65 per month is exempted as personal use monies. Personal use monies may be conserved for his use up to a maximum of \$1,500. When the conserved fund maximum is reached, the full amount of income is assessed less \$25 per month personal use monies. If, after the assessment, the conserved fund level still exceeds the maximum of \$1,500, the excess income over \$1,500 is assessed. If the conserved fund account falls below \$1,500, the assessment returns to 50% of all income over \$65 until funds again reach \$1,500.

Authority

The provisions of this § 4310.9 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.9 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (251381).

4310-9

(381711) No. 502 Sep. 16

§ 4310.10. Multiple income sources.

(a) If a client has multiple income sources, such as more than one benefit, or earned interest, or both, all sources of income shall be aggregated and assessed as income except as detailed in subsection (c).

(b) If a client has more than one source of income, the \$60 exemption is applied only once. Multiple exemptions are not permitted, and a combination of these benefits cannot equal more than \$1,500 in combined conserved funds, except as detailed in subsection (c).

(c) If a client is a working resident and also has other income in form of benefits, interest, and the like—for rehabilitative purposes and recognizing the need for work expenses—working clients are permitted a \$60 deduction in personal use monies from benefit or other income or both plus the \$65 deduction and 50% additional earning working client income. Conserved fund levels exceed \$1,500, however, from the combination of benefit or other income or both and working client income accounts.

Source

The provisions of this § 4310.10 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.11. Capital assets.

For the purpose of obtaining Medical Assistance eligibility, charges shall be made against assets of the client following 6 months of continuous inpatient hospitalization at the State facility and physician's certification of continued need of care for an additional one year. These resources, exclusive of the real estate which constitutes the home residence of the client, shall be considered a resource for the client to meet the cost of service at the State facility. Charges against capital assets are billed at the full per diem rate until only \$1,500 in combined funds remains. When the allowable conserved fund amount is reached, the client's liability is reassessed based on his income.

Source

The provisions of this § 4310.11 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.12. Irrevocable/court-ordered burial accounts and restricted trust accounts.

If a client has a burial or trust account, the status of the account shall be determined and documented. The only burial reserve or trust account that is not considered a resource to the client is an irrevocable or court-ordered burial account or restricted trust account.

(1) *Irrevocable/court-ordered burial accounts.* Those accounts that can only be released to a funeral director or legal representative upon the client's death. Documentation is required in all cases to verify irrevocability.

(2) *Restricted trust accounts.* Those trusts that have been established in the client's name that are legally restricted from invasion of the principal amount for care and maintenance. Income only may be assessed from such trusts. Documentation is required in all cases to verify the status of the trust.

(3) *Clients with legally liable relatives and with income or assets restricted to their own use.*

(i) Clients with income or assets restricted to their own use are assessed liability against income or assets or both.

(ii) Liability of the client's LLR is based on the monthly liability scale. Charges are first assessed on the client's income or assets or both and then on the LLR's income.

Source

The provisions of this § 4310.12 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

Notes of Decisions

Department of Public Welfare's conclusion that the assets and income of discretionary support trusts are available resources for adult mentally disabled beneficiaries who require institutional care is inconsistent with State's public policy as expressed in the Mental Health Act (50 P.S. § 4502) and to the extent that this section is inconsistent with this opinion, it is invalid. *Lang v. Department of Public Welfare*, 528 A.2d 1335 (Pa. 1987).

To the extent that this section attempts to define a property interest so as to increase the liability of individual clients responsible only for their own support, it is invalid as beyond the authority granted to DPW under the Mental Health Act (50 P.S. 4502). *Lang v. Department of Public Welfare*, 528 A.2d 1335 (Pa. 1987).

§ 4310.13. Determining legally liable relative monthly liability.

The extent of a LLR's liability for costs of services provided to clients over and above that paid by third-party payors, other agencies, or the client is based on discretionary income and determined from the table in Appendix A. The monthly LLR liability is determined by the following assessment method. The assessment must be completed on the PW-833.

(1) *Determining gross income.*

(i) Income must be verified using the most recent Federal tax 1040 forms. If Federal tax forms are not available, the W-2 or three recent pay stubs may be used. However, LLR's are required to present their Federal Income 1040 tax forms at the next Federal income tax filing period.

(ii) Determine the total annual earned income of the household. To the earned income figures, add any interest, dividends, benefits, alimony, or child support payments received by the LLR during the preceding 12 months. The

sum of all earned and nonearned income is the gross annual income. The following policies apply to the determination of gross income:

- (A) Earned income is the sum of all wages, salaries, fees, commissions, tips, bonuses, net rental income before deductions for taxes, insurance, tax sheltered annuities or other income.
 - (B) Interest income includes interest received from accounts with banks, money market funds, credit unions or bonds that are paid to the LLR.
 - (C) Dividends received from corporate stock holdings or life insurance policies are counted as income.
 - (D) Capital gains from any source.
 - (E) Benefits including, but not limited to, unemployment compensation, OASDI payments, pensions, black lung benefits, railroad retirement, and the like, are counted as income.
 - (F) Benefits of a LLR that are specifically restricted to his own personal use, such as veteran's pensions or Social Security benefits shall be considered only for his own support and must be disregarded for the purpose of supporting the client.
- (iii) Alimony and support payments are counted as income when determining gross income.
- (A) If there is a court-supervised settlement or agreement regarding payment for medical care costs for the client, liability is only assessed against the spouse or parent having responsibility for these costs.
 - (B) If the court order specified that the first spouse or parent is liable for medical costs up to a given dollar amount, the second spouse or parent remains liable up to the second spouse's or parent's maximum liability, but liability may not exceed the amount assessed the first spouse or parent under court order.
 - (C) If there is no court-supervised separation or divorce agreement, the income of both spouses or parents is considered assessable up to the maximum liability. If a child is a client and if the parent with whom the child is not residing refuses to provide information or income amounts, liability of the parent with whom the child resides is limited to the maximum liability based on the one parent's income. The other parent refusing to provide information or income amounts is liable for the full cost of care up to the maximum liability over and above the charges paid by the parent with whom the child resides.
 - (D) Services may not be discontinued to a child because of nonpayment by the noncustodial parent.
- (2) *Determining discretionary income.*
- (i) Discretionary income is the amount of monies available to the household after all deductions permitted by this chapter have been computed. To determine the amount of discretionary income available, deduct:

(A) State and Federal income taxes actually paid, mandatory payroll deductions including Social Security, local taxes, wage and work privilege taxes, union dues and contributions to mandatory retirement plans.

(B) Health insurance premiums not included in clause (D). Life insurance premiums are not deductible.

(C) Reasonable and verified child care costs.

(D) Verified medical expenses, including health insurance premiums, not included in clause (B), exceeding 5% of gross annual income.

(E) A living allowance of \$6,000 per household, plus an additional \$1,000 per dependent. Real estate taxes on the home residence are deductible if paid currently.

(ii) When all deductions have been subtracted from the gross annual income, the remainder is discretionary income.

(3) *Monthly LLR liability assessment.*

(i) After the discretionary annual income amount has been determined, turn to Appendix A to determine the appropriate liability assessment.

(ii) Compare the annual discretionary income amount to Appendix A. The amount of monthly liability is charted beside the annual discretionary income level.

(4) *Determining the size of the household.*

(i) A household consists of the head of household, and other household members including:

(A) The spouse of the head of household, unless the spouse is separated or divorced from the head of household and the head of household is paying less than 50% of the cost of support of that spouse.

(B) Any children under 18 years of age related by blood, marriage, or adoption whom the head of the household has a legal duty to support, or other dependents as defined by the IRS dependency criteria.

(C) A child under 22 years of age who is a student regularly attending school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, is counted as a household member if the head of household is responsible for at least 50% of his support.

(ii) When the size of the household is determined, that information is used to determine the dependency allowance under paragraph (2)(i)(E).

Source

The provisions of this § 4310.13 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; corrected January 21, 1983, effective December 4, 1982, 13 Pa.B. 523.

Cross References

This section cited in 55 Pa. Code § 4310.18 (relating to debt payments not included when considering liability abatement/modification requests).

BILLING AND COLLECTION**§ 4310.14. Billing legally liable relatives/clients and other liable persons.**

(a) Client/LLR's and other liable persons must be billed at the end of each calendar month for the amount of the maximum liability or outstanding charges or both.

(b) LLR's/clients/liable persons who refuse to provide sufficient financial information or other information for determining monthly liability must be billed at the full per diem rate for the facility.

Source

The provisions of this § 4310.14 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.15. Collections.

If a third-party payment is received, the LLR/client is liable for that portion of the charges not covered by the payment up to their maximum liability. When a third-party payor makes direct payment to a LLR/client, the amount paid by the insurance company is payable to the provider in full in addition to the liability assessment against the client/LLR except when the imposition of client/LLR liability would exceed the monthly per diem rate for the facility.

Source

The provisions of this § 4310.15 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.16. Frequency of redetermination.

(a) Liability must be redetermined at least once per year for non-Medical Assistance clients.

(b) Liability and income/resource redetermination must be completed every 6 months for MA clients or as often as a County Assistance Office requests.

(c) The liable person/client is responsible for reporting all changes in income to institutional collections. If the liability is redetermined prior to a redetermination period, the liable person/client is liable for the amount of the assessment made on redetermination.

Source

The provisions of this § 4310.16 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.17. Abatement or modification of liability.

(a) Only in extraordinary circumstances will consideration be given to abatement or modification of liability in accordance with the following criteria under

section 504(a) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4504(a)). The imposition of such liability would:

(1) “result in the loss of financial payments or other benefits from any public or private source which the mentally disabled person would receive, would be eligible to receive or which would be expended on his behalf except for such liability”;

(2) “result in a substantial hardship upon the mentally disabled person, a person owing a legal duty to support such person or the family of either”;

(3) “result in a greater financial burden upon the people of the Commonwealth”; or

(4) “create such a financial burden upon such mentally disabled person as to nullify the results of care and treatment, service or other benefits afforded to such person under any of this act.”

(b) The institutional collections officer may assist the client or his legally liable relative, or both, in the preparation of a request for an abatement or modification, if so requested. This may include checking to insure the inclusion of all required information, typing the final copy, and forwarding the request to the Secretary of Human Services or his designee. (Complete PW-83 and PW-833.)

Authority

The provisions of this § 4310.17 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.17 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial page (337574).

Notes of Decisions

The Department was under no obligation to procure or produce evidence of alleged debts incurred by petitioner for level representation in a criminal matter for purposes of reviewing his assessed liability. *Mulgrew v. Department of Public Welfare*, 557 A.2d 1160 (Pa. Cmwlth. 1989); appeal denied 574 A.2d 74 (Pa. 1990).

§ 4310.18. Debt payments not included when considering liability abatement/modification requests.

The following is a list of debt payments not included when considering liability abatement/modification requests:

- (1) Mortgage or rent on principal residence.
- (2) Utility payments.
- (3) Payments on first automobile.
- (4) Medical expenses already deducted under § 4310.13(2)(i)(B) or (D) (relating to determining legally liable relative monthly liability).

- (5) Debts incurred after treatment has begun.
- (6) Any other debt or payment for which the client has not incurred a legal obligation to pay.
- (7) Retail charge purchases for personal use items, food and commodities.

Source

The provisions of this § 4310.18 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.19. Criteria for abatement or modification in hardship cases.

The following is a list of criteria for abatement or modification in hardship cases:

- (1) If the ratio of debt payments to income exceeds or is equal to .8, abate the liability.
- (2) If the ratio is less than .8, but greater than or equal to .7, modify the liability to 25% of the assessed amount.
- (3) If the ratio is less than .7, but greater than or equal to .6, modify the liability to 50% of the assessed amount.
- (4) If the ratio is less than .6, but greater than or equal to .5, modify the liability to 75% of the assessed amount.
- (5) If the ratio is less than .5, liability shall be neither abated nor modified.

Source

The provisions of this § 4310.19 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.20. Clinical abatement or modification of liability.

(a) The Department may make a clinical abatement or modification of liability if the imposition of liability would result in a greater financial burden upon the people of this Commonwealth or would create such a financial burden upon such mentally disabled person as to nullify the result of care and treatment, service, or other benefits afforded to the person under the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704). Clinical abatements will be granted only if:

- (1) The imposition of liability would be likely to negate the effectiveness of treatment, or prohibit the client's entry into treatment.
- (2) The failure to provide the treatment would result in serious harm to the client's welfare or in greater cost to this Commonwealth due to the deterioration of the client's condition.

(b) Requests for clinical abatement or modification may be initiated either by the MH or intellectual disability professional who is treating the client or by the liable person. If initiated by the liable person, the request shall be endorsed by the MH or intellectual disability professional who is treating the client.

(c) When making a request for clinical abatement, the treating MH or intellectual disability professional shall justify the request in the client's case record by stating why he believes that the client qualifies for clinical abatement or modification. The request for clinical abatement or modification shall be forwarded to the Secretary's designee on Form PW-1075. The Secretary's designee shall review the request and notify the MH or intellectual disability professional and the institutional collections officer of the decision.

Authority

The provisions of this § 4310.20 amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this § 4310.20 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial pages (251387) and (251388).

Notes of Decisions

Petitioner, who received psychiatric care after his discharge from a State hospital in a clinical abatement proceeding was not eligible for abatement because he was not a "client" as defined by the Department's regulations, which requires the patient to be a resident of the State hospital at the time of treatment. *Weychert v. Department of Public Welfare*, 551 A.2d 605 (Pa. Cmwlth. 1988).

§ 4310.21. Departmental review procedure.

(a) The request for review of the determination of the assessment or for an abatement or modification of liability is considered by the Secretary's designee.

(b) Following this consideration, a reply is prepared for the Secretary's or his authorized designee's signature. In addition, the notice of decision informs the client or his LLR or both that he has the right to appeal the decision within 30 days, if he is dissatisfied with it, by submitting a written request for a fair hearing to the Office of Hearings and Appeals. An explanation of the appellant's rights and fair hearing law are included with the notice.

Source

The provisions of this § 4310.21 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.22. Appeals.

The fair hearing will be conducted by the Department's Office of Hearings and Appeals in conformance with the Department's Office of Hearings and Appeals' procedures. The institutional collections officer completing the liability assessment shall participate in the hearing to explain how the assessment was com-

pleted. The Department staff member responsible for reviewing the request for abatement or modification or both shall participate in the hearing process.

Source

The provisions of this § 4310.22 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

Notes of Decisions

This section does not provide specific time restraints for final administrative action by the Department in reviewing a request for an abatement or modification of an assessed liability. *Mulgrew v. Department of Public Welfare*, 557 A.2d 1160 (Pa. Cmwlth. 1989); appeal denied 574 A.2d 74 (Pa. 1990).

§ 4310.23. Delinquent accounts.

(a) An account is considered delinquent if three successive billings during a 90-day period have not been paid.

(b) When a client/LLR refuses to make the payment for services, the institutional collections officer shall take all necessary action to pursue the collection of charges up to the 90-day limit. If all collection attempts fail, the institutional collections officer shall prepare the delinquent account for collection and forward it to the Office of the Attorney General for further action.

Source

The provisions of this § 4310.23 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

§ 4310.24. Write-off requests.

(a) Write-off is the termination of all collection activity with regard to a specific amount.

(b) In the event that all collection efforts fail or there is documented evidence that the account cannot be collected, or both, the outstanding balance shall be submitted to the Division of Institutional Collections for review and forwarded to the Office of the Attorney General for final approval for write-off.

(c) Write-off does not exonerate the client/LLR from paying the account. It is authorization to remove the account from active accounts receivable. These charges shall be billed at a later date if the client/LLR becomes financially able to pay.

(d) The write-off of any account shall be justified by at least one of the following considerations:

(1) There is doubt as to liability, when a bona fide dispute exists, either as a question of fact or of law. This doubt may be the result of:

(i) Adverse court decisions under similar factual situations.

(ii) Adverse legal opinions prepared by the Office of Legal Counsel.

(2) When the legal liability of the debtor is clear and unequivocal, doubt may exist as to the collectability of the claim. The doubts may include, but are not limited to:

(i) Inability to locate the debtor.

(ii) Death of the debtor, and no estate exists or the estate is so small that expenses would deplete the assets of such estate.

(iii) Bankruptcy of the debtor.

(iv) Other judgments against the debtor having priority over the Commonwealth's claim.

(e) If any of the conditions for write-off exist, the institutional collections officer shall prepare the account for write-off and submit it to the Office of the Attorney General.

(f) The Office of the Attorney General has sole authority to authorize write-off of delinquent accounts. If an authorization is received, it shall be maintained as part of the client's financial file.

Source

The provisions of this § 4310.24 adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149.

APPENDIX A
LLR
MONTHLY LIABILITY SCALE

<i>Annual Discretionary Income</i>	<i>Monthly Liability for Institutional Care</i>	<i>Annual Discretionary Income</i>	<i>Monthly Liability for Institutional Care</i>
0-249	-3-	9000-9499	329.
250-499	11.	9500-9999	356.
500-999	22.	10,000-10,499	384.
1000-1499	36.	10,500-10,999	413.
1500-1999	50.	11,000-11,499	443.
2000-2499	65.	11,500-11,999	474.
2500-2999	79.	12,000-12,499	506.
3000-3499	94.	12,500-12,999	540.
3500-3999	108.	13,000-13,499	574.
4000-4499	122.	13,500-13,999	610.
4500-4999	137.	14,000-14,499	646.
5000-5499	151.	14,500-14,999	684.
5500-5999	170.	15,000-15,499	723.
6000-6499	189.	15,500-15,599	763.
6500-6999	210.	16,000-16,499	804.
7000-7499	231.	16,500-16,999	846.
7500-7999	254.	17,000 and over	1/20 of
8000-8499	278.		discretionary
8500-8999	303.		income +\$23.00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ASSESSMENT

TO: _____

THIS IS NOT A BILL

CLIENT'S NAME	
RELATIONSHIP TO CLIENT	
EFFECTIVE DATE OF ASSESSMENT	AMOUNT OF LIABILITY*
	\$
BASED ON	
<input type="checkbox"/> INCOME	<input type="checkbox"/> BENEFITS

*Plus any amount required to maintain the \$1500.00 asset level.

Dear

Under Sections 501, 502 and 503 of the Mental Health and Intellectual Disability Act of 1966, you are liable for services provided the client mentioned above. According to the Department of Human Service's Regulations promulgated as Chapter 4310 your monthly liability has been assessed in the maximum amount specified above. You will be billed monthly for services provided in accordance with charges established by the Department of Human Services or the amount of your liability, whichever is the lesser amount. It is your responsibility to report significant changes in income which may effect the amount of your liability.

If payment of the liability will cause a hardship for you, you may request an abatement or modification of liability by completing the form on the reverse side of this notice with a full explanation of the hardship created. Forward the PW-83 and a copy of the Determination of Liability - PW-833 to the Secretary of Human Services, Box 2675, Harrisburg, Pennsylvania 17105. If you need assistance, the facility providing the service will assist you in completing this request.

The basis for granting an abatement or modification of liability are detailed in the Notice of Rights - S1-83 provided with the Notice of Assessment - PW-83.

Debts that cannot be considered in granting abatement or modification of liability include:

- (a) mortgage or rent on principal residence;
- (b) utility payments;
- (c) payments on first automobile;
- (d) medical expenses already considered;
- (e) debts incurred after treatment has begun;
- (f) any other debt or payment for which the client has not incurred a legal obligation to pay;
- (g) retail charge purchases for personal use items, food and/or commodities.

Any request for review must be made within 30 days from receipt of this notice. The time limit will not apply where hardship has been caused by unforeseen circumstances over which you have no control.

INSTITUTIONAL COLLECTIONS OFFICER

DATE

4310-20

REQUEST FOR REVIEW OF LIABILITY

NAME OF PERSON MAKING REQUEST FOR REVIEW BIRTHDATE IF LEGALLY RESPONSIBLE RELATIVE RELATION TO CLIENT

ADDRESS COUNTY TELEPHONE NO.

CLIENT'S NAME AND INSTITUTION CARE NUMBER BIRTHDATE AMOUNT OF LIABILITY AS DETERMINED BY INSTITUTIONAL COLLECTION OFFICER \$

NAME OF INSTITUTION PROVIDING SERVICES FOR WHICH LIABILITY IS INCURRED

INCOME (as indicated on PW-833) \$

PERSONS DEPENDING ON ABOVE INCOME: Including Self and Client

Table with 4 columns: Name, Address, Age, Relationship. Multiple rows for listing dependents.

ACCUMULATED DEBTS: Include only those debts on which payments are made on a regularly scheduled basis that meet the criteria on the reverse side of this form.

- List of debt items labeled a through l.

ANY OTHER UNUSUAL EXPENSES OR CIRCUMSTANCES THAT WOULD SUPPORT REQUEST FOR ABATEMENT OR MODIFICATION OF LIABILITY

I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE DATE

DETERMINATION OF CLIENT LIABILITY

A. NAME OF FACILITY

B. CLIENT'S NAME(S)	CASE NUMBER(S)	SERVICE(S) TO BE PROVIDED	EFF. DATE OF ASSES.

C. THIRD PARTY PAYMENT FOR CLIENT'S CARE

MEDICAL/GENERAL ASST. (If yes, case no.) <input type="checkbox"/> NO <input type="checkbox"/> YES	PRIVATE HEALTH INSURANCE (If yes, company name) <input type="checkbox"/> NO <input type="checkbox"/> YES	POLICY NO.

SOCIAL SECURITY (If yes, number) <input type="checkbox"/> NO <input type="checkbox"/> YES	VETERAN'S BENEFITS (If yes, claim no.) <input type="checkbox"/> NO <input type="checkbox"/> YES	MEDICARE (If yes, number) <input type="checkbox"/> NO <input type="checkbox"/> YES

OTHER (specify) _____

D. NAME(S) OF LEGALLY RESPONSIBLE RELATIVES	RELATIONSHIP	EMPLOYER

E. COMPUTATION OF LIABILITY

ANNUAL INCOME:	
1. Salary and/or wages	\$ _____
2. Interest and/or dividends	_____
3. Benefits (social security, VA, Pensions)	_____
4. Other (support payments, etc.)	_____

5. TOTAL INCOME _____ \$

DEDUCTIONS:

1. Federal Income Tax	_____
2. State Income Tax	_____
3. Local Income Tax	_____
4. FICA (self employment tax)	_____
5. Mandatory Retirement	_____
6. Extensive Medical Expenses (Exceeding 5% of Gross Income)	_____
8. Real Estate Taxes	_____
9. Work Privilege Tax	_____
10. Child Care Costs	_____
11. Other (Specify)	_____

F. TOTAL DEDUCTIONS _____ \$

G. Net Annual Income	_____
H. Household Allowance	_____
I. Dependency Allowance	_____

J. DISCRETIONARY INCOME _____ \$

K. DEPENDENT'S NAME(S)	AGE	RELATIONSHIP

L. LIABILITY _____ \$

I have read the information in items A through E and find them to be true to the best of my knowledge and belief.

NOTICE OF RIGHTS

HOSPITAL	NAME OF PATIENT/CLIENT	CASE NUMBER
----------	------------------------	-------------

INSTRUCTIONS: Upon completion, retain in patient/client file

This is to inform you that you have the right to seek the advice of an attorney or other person of your choice not employed by the Commonwealth regarding the attached Notice of Assessment for services provided to you.

The advisor of your choice may be present at any conference you may wish to arrange with the revenue agent or other Commonwealth employe in connection with the settlement of this bill as indicated in the Notice of Assessment.

You also have the right to request a hearing from the Secretary of Human Services for the purpose of modifying your liability if any questions remain unresolved after 1) conference with the revenue agent, and 2) review by the Department of the revenue agent's assessment.

In addition, you have the right to petition the Secretary under 50 P.S. § 4504 and to obtain a hearing regarding abatement, modification or discharge of assessed liability on the basis that:

- (i) Imposition of liability would result in loss of financial payments of benefits from any public or private source to which he or she might be entitled, 50 P.S. § 4504(a)(1)(i); or
- (ii) Imposition of liability would result in a substantial financial hardship upon him, her or a person owing a legal duty of support to him or her, 50 P.S. § 4504(a)(1)(ii); or
- (iii) Imposition of liability would result in greater financial burden upon the people of the Commonwealth, 50 P.S. § 4504(a)(1)(iii); or
- (iv) Imposition of liability would result in a financial burden upon him or her that would nullify the results of care and treatment for mental disability, 50 P.S. § 4505(a)(1)(iv); or
- (v) State and federal benefits may be insulated from claims of the Commonwealth for care and maintenance; or
- (vi) The patient/resident is entitled to the reasonable value of unpaid work benefiting the Commonwealth in reduced costs of maintenance and operation of the facility to which he or she was admitted or committed, performed by him or her, by way of offset; or
- (vii) The care and maintenance is less than that assessed by the Commonwealth; or
- (viii) Any other defenses or offsetting claims in law and equity.

Witness Signature

Authorized Signature

Date

**NOTICE OF DECISION
BY THE DEPARTMENT**

To: _____
In Re: _____
 Client's Name

 Client's Case Number

The Department of Human Services has acted on your request for review of your liability. As a result of this review:

- Your liability has been changed to _____
- Your request has been denied (see enclosed sheet for reason(s) for denial)

If you disagree with the results of this review you have the right to request a fair hearing before the Department of Human Service's Hearing and Appeals Unit. If you wish to request such a hearing, you must complete the back of this form and mail it along with the other information required on the back to the Office of Hearings and Appeals, P.O. Box 2675, Harrisburg, Pa. 17105 within 30 days of receipt of this notice. Appeals will be considered within 30 days of the mailing date of this decision. More details on the hearing process may be obtained from Institutional Collections Officer.

Date

DHS Representative
PW 1073

I wish to have a fair hearing before the Department's Office of Hearings and Appeals. The attached letter explains the reasons why I am appealing this decision.

Date

Liable Person's Signature

* * * * *
APPEAL PROCEDURE

To appeal a decision regarding the assessment of liability, a written request for a fair hearing must be submitted to the Office of Hearings and Appeals, Department of Human Services, P. O. Box 2675, Harrisburg, Pa. 17120, within 30 days of the date from which this decision was mailed.

In your request for a fair hearing you must state the reason(s) why you are appealing the Department's decision. It is also necessary that you list your name, address and telephone number, with area code, and whether or not you will be represented by counsel. If you are represented by counsel, list counsel's name, address, and telephone number, with area code, as the Office of Hearings and Appeals may elect to hold the hearing by telephone.

At the hearing, the appellant may represent himself or be represented by counsel, and has the following rights:

1. To present evidence on his own behalf, to bring witnesses, and to confront and cross-examine witnesses the Department will produce to support its decision or action.
2. To examine prior to the hearing, as well as during the hearing, that material from the patient's records that the Department will introduce as evidence in the hearing to support its decision or action.
3. To be provided with the names, addresses and telephone numbers of the Department's staff members and witnesses who will be present at the hearing.

**REQUEST FOR DEPARTMENTAL REVIEW
CLINICAL ABATEMENT**

Client's Name _____ Hospital Case # _____

Liable Person's Name _____

I hereby request the review by the Department of this liable person's/client's assessed liability. I request that the liability be:

_____ Abated in full
_____ Modified to _____ per year

I hereby certify that to the best of my knowledge and belief, the imposition of liability would be likely to negate the effectiveness of treatment, or prohibit the client's continuing treatment. I further certify that, to the best of my knowledge and belief, the failure to provide such treatment would result in serious harm to the client's welfare or in greater cost to the Commonwealth due to deterioration in the client's condition. The grounds for such belief are fully spelled out in the client's case record and are summarized as follows:

Date

Signature of MH/ID Professional
PW 1075

Authority

The provisions of this Appendix A amended under sections 201(2) and (8) and 202 of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4201(2) and (8) and 4202).

Source

The provisions of this Appendix A adopted December 3, 1982, effective December 4, 1982, 12 Pa.B. 4149; amended June 17, 2016, effective June 18, 2016, 46 Pa.B. 3177. Immediately preceding text appears at serial pages (375699) to (375706).

[Next page is 4315-1.]

4310-26