

(II) IS A MENTALLY RETARDED INDIVIDUAL, BUT DOES NOT NEED HABILITATION SERVICES FOR PROTECTION OR ADEQUATE HABILITATION.

(2) THE DIRECTOR SHALL APPROVE THE APPLICATION FOR ADMISSION OF AN INDIVIDUAL TO AN APPROPRIATE STATE FACILITY IF:

(I) THE FINDINGS OF THE COMPREHENSIVE EVALUATION ARE THAT THE INDIVIDUAL:

1. IS A MENTALLY RETARDED INDIVIDUAL; AND

2. FOR PROTECTION OR ADEQUATE HABILITATION, NEEDS HABILITATION SERVICES; AND

(II) THERE IS NO AVAILABLE, LESS RESTRICTIVE FORM OF TREATMENT THAT IS CONSISTENT WITH THE WELFARE AND SAFETY OF THE INDIVIDUAL.

(3) THE DIRECTOR SHALL RECOMMEND AN APPROPRIATE PROGRAM IF THE FINDINGS OF THE COMPREHENSIVE EVALUATION ARE THAT THE INDIVIDUAL:

(I) IS A MENTALLY RETARDED INDIVIDUAL;

(II) DOES NOT NEED HABILITATION SERVICES FOR PROTECTION OR ADEQUATE HABILITATION; AND

(III) DOES NEED CARE IN A PROGRAM THAT PROVIDES LESS THAN 24-HOUR TREATMENT.

(B) DETERMINATIONS BY PRIVATE FACILITY.

(1) A PRIVATE FACILITY MAY NOT APPROVE AN APPLICATION FOR ADMISSION OF AN INDIVIDUAL IF THE FINDINGS OF THE COMPREHENSIVE EVALUATION ARE THAT THE INDIVIDUAL:

(I) IS NOT A MENTALLY RETARDED INDIVIDUAL;
OR

(II) IS A MENTALLY RETARDED INDIVIDUAL, BUT DOES NOT NEED IN-RESIDENCE TREATMENT FOR THE PROTECTION OF THE INDIVIDUAL OR ANOTHER OR ADEQUATE CARE OF THE INDIVIDUAL.

(2) A PRIVATE FACILITY MAY APPROVE AN APPLICATION FOR ADMISSION OF AN INDIVIDUAL IF:

(I) THE FINDINGS OF THE COMPREHENSIVE EVALUATION ARE THAT THE INDIVIDUAL:

1. IS A MENTALLY RETARDED INDIVIDUAL; AND