

(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

2. [Needs in-residence treatment for protection of the individual or another or for adequate care of the individual] NEEDS HABILITATION SERVICES FOR PROTECTION OR ADEQUATE HABILITATION; and

(ii) There is no available, less restrictive form of treatment that is consistent with the welfare and safety of the individual.

(C) AN INDIVIDUAL SHALL BE PLACED IN THE APPROPRIATE LEAST RESTRICTIVE FACILITY CONSISTENT WITH THE INDIVIDUAL'S WELFARE, SAFETY, AND HABILITATION PLAN, IF THE INDIVIDUAL:

(1) IS APPROVED FOR ADMISSION UNDER SUBSECTIONS (A) AND OR (B) OF THIS SECTION; OR

(2) HAS AN INDIVIDUALIZED PLAN OF HABILITATION THAT REQUIRES PLACEMENT IN A LESS RESTRICTIVE SETTING UNDER § 7-605 OF THIS ARTICLE TITLE; OR

(3) IS CONSIDERED ELIGIBLE FOR TRANSFER UNDER § 7-708 OF THIS ARTICLE TITLE BY THE DIRECTOR OR THE DIRECTOR'S DESIGNEE.

~~(D) -- IF LESS RESTRICTIVE APPROPRIATE FACILITIES ARE NOT AVAILABLE, -- THE -- DIRECTOR -- OR -- THE -- DIRECTOR'S -- DESIGNEE -- SHALL -- CREATE -- APPROPRIATE -- FACILITIES -- WITHIN -- 120 -- DAYS -- OF --~~

~~(1) -- APPROVAL -- OF -- THE -- INDIVIDUAL'S -- ADMISSION, -- OR~~

~~(2) -- APPROVAL -- OR -- REEVALUATION -- OF -- THE -- INDIVIDUAL'S -- PLAN -- OF -- HABILITATION, -- OR~~

~~(3) -- A -- DETERMINATION -- BY -- THE -- SECRETARY -- OR -- THE -- DIRECTOR -- THAT -- A -- TRANSFER -- IS -- NEEDED.~~

~~(E) -- THE -- PROVISIONS -- OF -- THIS -- SECTION -- REQUIRING -- PLACEMENT -- ARE -- SUBJECT -- TO -- THE -- FOLLOWING -- CONDITIONS.~~

~~(1) -- MENTALLY -- RETARDED -- INDIVIDUALS -- CERTIFIED -- UNDER -- A -- COURT -- ORDER -- AS -- INAPPROPRIATELY -- PLACED -- IN -- FACILITIES -- FOR -- THE -- MENTALLY -- ILL -- SHALL -- BE -- APPROPRIATELY -- PLACED -- IN -- FACILITIES -- CONSISTENT -- WITH -- THEIR -- SERVICE -- NEEDS.~~