

**NURSING FACILITY SERVICES****17.7 COMMON ELIGIBILITY REQUIREMENTS**

Individuals receiving payment for nursing facility services must meet all common eligibility requirements in Chapter 8.

The eligibility requirement of residency is explained in detail in this Section. The requirement of residency is met when the recipient is living, not visiting, in West Virginia with the intention of remaining permanently or for an indefinite period.

Only a competent adult has the ability to express intent. An individual age 21 or over is presumed competent unless there is medical evidence to establish:

- An IQ of 49 or less; or
- A mental age of 7 or less; or
- Legal incompetence.

When the client is institutionalized, the client's intent is used to determine the state of residence.

When an individual is placed in a nursing facility or institution in one state by a state agency in another state, he retains his residence in the state making the placement.

For any institutionalized individual, age 21 or over, who is incapable of expressing intent and was not placed by a state agency, the state of residence is the state in which the individual is living.

The state of residence for an institutionalized individual under age 21 is the state of residence of the child's parent(s) or legal guardian, if they currently live in the same state. If the child and his parent(s)/legal guardian do not live in the same state, the state the parent(s)/legal guardian lived in at the time the child was institutionalized is the child's state of residence. If a minor child has married or in some other way becomes emancipated, the child is considered capable of expressing intent.