

TO BE RESCINDED

5101:3-3-15.1 **Preadmission screening (PAS) requirements for individuals seeking admission to nursing facilities (NFs) and/or PASSPORT waived services.**

(A) The purpose of this rule is to set forth the PAS requirements which must be met prior to any new admission (as defined in paragraph (B)(8) of this rule) in order to comply with section 1919(e)(7) of the Social Security Act, as amended. NFs and the PASSPORT program (defined in Chapter 5101:3-31 of the Administrative Code) are prohibited from accepting any new admission, unless the individual has met the PAS requirements specified in this rule.

(B) Definitions:

- (1) "Active treatment," for purposes of this rule, means a continuous treatment program which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services for individuals with mental retardation and/or other developmental disabilities that are directed toward the following:
 - (a) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and
 - (b) The prevention or deceleration of regression or loss of current optimal functional status.
- (2) "Admission for a convalescent stay." A new admission is considered to be an admission for a convalescent stay if it meets all of the following criteria:
 - (a) The individual is admitted directly from a hospital after receiving inpatient care at that hospital; and
 - (b) The individual requires the level of services provided by a NF for the condition which was treated in the hospital; and
 - (c) The individual's attending physician has provided written certification, signed and dated no later than the date of discharge from the hospital, that the individual is likely to require the level of services provided by a NF for less than thirty days.
- (3) "Adverse determination" means a determination made in accordance with sections 1919(b)(3)(F) or 1919(e)(7)(B) of the Social Security Act, as

amended, this rule, and rules 5122-21-03 and 5123:2-14-01 of the Administrative Code, that an individual does not require the level of services provided by a NF or that an individual does or does not require specialized services. No adverse decision regarding an individual's need for the level of services provided by a NF is accepted by the Ohio department of human services (ODHS) as a determination unless both of the following conditions have been met:

- (a) A registered nurse has conducted a face-to-face assessment of the individual and reviewed the medical records that accurately reflect the individual's current condition; and
 - (b) Authorized ODMH and/or Ohio department of mental retardation and developmental disabilities (ODMR/DD) personnel other than the nurse who conducted the face-to-face assessment have reviewed the assessment and made the final determination regarding the need for NF services.
- (4) "Current diagnoses" means those diagnoses verified by the individual's attending physician as current in the most recent physical examination report, physician progress notes, or other reevaluation of current diagnoses performed within one year prior to the PAS.
- (5) "Dementia." An individual is considered to have dementia if he or she meets either of the following criteria:
- (a) The individual has a primary diagnosis of a dementia, including Alzheimer's disease or a related disorder, as described in the "Diagnostic and Statistical Manual of Mental Disorders," third edition, revised in 1987 (DSM-III-R) (or the most recent edition); or
 - (b) The individual has a secondary diagnosis of a dementia, including Alzheimer's disease or a related disorder, (as described in the DSM-III-R or most recent edition), and a primary diagnosis which is not a major mental disorder specified in paragraph (B)(16)(a) of this rule.
- (6) "Long-term resident" means an individual who has continuously resided in a NF or a consecutive series of NFs and/or medicare skilled nursing facilities for at least thirty months prior to the first resident review (RR) (defined in rule 5101:3-3-152 of the Administrative Code) determination in which the individual was found not to require the level of services provided by a NF, and to require specialized services. The thirty months may include temporary

absences for hospitalization or therapeutic leave as defined in rule 5101:3-3-03 of the Administrative Code.

(7) "Mental retardation and/or other developmental disabilities (MR/DD)." An individual is considered to have mental retardation and/or a developmental disability if he or she has:

(a) A level of retardation (mild, moderate, severe or profound) described in the "American Association on Mental Retardation's Manual on Classification in Mental Retardation" (1989); or

(b) A related condition as defined in paragraph (B)(15) of this rule.

(8) "New admission" means:

(a) The admission, to an Ohio medicaid-certified NF, of an individual who was not a resident of any Ohio medicaid-certified NF immediately preceding the current NF admission nor immediately preceding a hospital stay from which the individual is to be admitted directly to a NF (this includes individuals with no previous NF admissions; individuals admitted from other states, regardless of type of prior residence; and individuals with prior Ohio NF admissions who had been discharged from an Ohio NF and did not have either an intervening hospital or other NF stay immediately preceding the current NF admission); and/or

(b) The enrollment of individuals who have applied for home and community based services waiver III (HCBS waiver III or PASSPORT waived services) as defined in Chapter 5101:3-31 of the Administrative Code.

NF transfers and/or readmissions (as defined in paragraphs (B)(9) and (B)(14) of this rule) are not considered to be new admissions for purposes of this rule.

(9) "NF transfer." A NF transfer occurs when an individual's place of residence is changed from one Ohio medicaid-certified NF to another Ohio medicaid-certified NF, with or without an intervening hospital stay.

(10) "PAS identification (PAS/ID)." "PAS/ID" is the process by which ODHS, or its designee, screens individuals who are seeking new admissions to identify those who have indications of serious mental illness (SMI) as defined in paragraph (C)(5)(a) of this rule, and/or MR/DD as defined in paragraph (C)(5)(b) of this rule; and who, therefore, must be further evaluated by

ODMH and/or ODMR/DD.

- (11) "PAS-MR/DD." "PAS-MR/DD" is the process by which ODMR/DD determines whether, due to the individual's physical and mental condition, an individual who has MR/DD requires the level of services provided by a NF or another type of facility; and, if the level of services provided by a NF is needed, whether the individual requires specialized services for MR/DD.
- (12) "PAS/SMI." "PAS/SMI" is the process by which ODMH determines whether, due to the individual's physical and mental condition, an individual who has SMI requires the level of services provided by a NF or another type of facility; and, if the level of services provided by a NF is needed, whether the individual requires specialized services for serious mental illness.
- (13) "Primary diagnosis" means that diagnosis which has a "P" or the word "primary" written next to it by the physician. If two or more diagnoses have such indications, none of them can be considered to be the primary diagnosis for purposes of this rule.
- (14) "Readmission" means the individual is readmitted to the same NF, or reenrolled for HCBS waiver III (PASSPORT waived services), following a stay in a hospital to which he or she was sent for the purpose of receiving care.
- (15) "Related condition" means a severe, chronic disability that meets all of the following conditions:
 - (a) It is attributable to:
 - (i) Cerebral palsy, epilepsy; or
 - (ii) Any other condition other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for those persons;
 - (b) It is manifested before the person reaches the age of twenty-two;
 - (c) It is likely to continue indefinitely;

- (d) It results in substantial functional limitations in three or more of the following areas of major life activity:
- (i) Self-care;
 - (ii) Understanding and use of language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living.

Individuals who have a developmental disability as defined in rule 5123:2-1-02 of the Administrative Code are considered to have a related condition.

- (16) "Serious mental illness (SMI)." An individual is considered to have SMI if the individual meets all of the following criteria on diagnosis, level of impairment and recent treatment:
- (a) **Diagnosis.** The individual does not have dementia (as defined in paragraph (B)(5) of this rule), but has a major mental disorder diagnosable under the "Diagnostic and Statistical Manual of Mental Disorders," third edition, revised in 1987 (DSM-III-R) (or the most recent edition); and this mental disorder is one of the following: a schizophrenic, mood, delusional (paranoid), panic or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder other than mental retardation that may lead to a chronic disability diagnosable under the DSM-III-R (or the most recent edition).
 - (b) **Level of impairment.** Within the past six months, due to the mental disorder, the individual has experienced functional limitations on a continuing or intermittent basis in major life activities that would be appropriate for the individual's developmental stage.
 - (c) **Recent treatment.** The treatment history indicates that the individual has experienced at least one of the following:

- (i) Psychiatric treatment more intensive than counseling and/or psychotherapy performed on an outpatient basis more than once within the past two years; or
 - (ii) Within the last two years, due to the mental disorder, experienced an episode of significant disruption to the usual living arrangement, for which supportive services were required, or which resulted in intervention by housing or law enforcement officials.
- (17) "Specialized services for serious mental illness" means those services which, when combined with the types of services available in NFs, result in the continuous and aggressive implementation of an individualized plan of care approved by the medical director of ODMH or a designee that:
- (a) Is developed and supervised by an interdisciplinary team which includes a physician, trained mental health professionals and, as appropriate, other professionals;
 - (b) Prescribes specific therapies and treatment activities for an individual who is experiencing an acute episode of SMI which necessitates supervision by trained mental health personnel; and
 - (c) Is time limited and directed toward diagnosing and reducing the individual's behavioral symptoms that necessitated intensive and aggressive intervention, improving the individual's level of independent functioning, and achieving a functioning level that permits reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time.
- (18) "Specialized services for mental retardation and/or other developmental disabilities" means the services specified by the PAS-MR or RR-MR determination and provided or arranged for by ODMR/DD which are integrated with services provided by the NF or other service providers to result in continuous active treatment. Specialized services shall be made available at the intensity and frequency necessary to meet the needs of the individual.
- (19) "Secondary diagnoses" means all diagnoses other than that which is a primary diagnosis as defined in paragraph (B)(13) of this rule.
- (20) "Usual living arrangement" means an individual's usual living arrangement,

including but not limited to homelessness, homeless shelter, private home, adult care facility licensed by the Ohio department of health (ODH) or ODMH, adult foster home, purchase of service (POS) home, intermediate care facility for the mentally retarded (ICF-MR), NF, rehabilitation center, jail, or hospital or part of a hospital licensed by ODMH under section 5119.20 of the Revised Code.

(C) PAS/ID requirements:

- (1) PAS/ID must be completed prior to any new admission (defined in paragraph (B)(8) of this rule) unless the admission meets the criteria for an exempted hospital discharge specified in paragraph (C)(2) of this rule.
- (2) Exempted hospital discharge. Individuals seeking new admissions are exempt from PAS/ID requirements if they meet the defining criteria of an admission for a convalescent stay (set forth in paragraph (B)(2) of this rule) and the admitting NF or, for individuals enrolling for HCBS waiver III (PASSPORT waived services), the responsible PASSPORT administrative agency (PAA) (defined in rule 5101:3-31-03 of the Administrative Code) meets the following requirements:
 - (a) The admitting NF or, for individuals enrolling for HCBS waiver III (PASSPORT waived services), the responsible PAA must obtain from the discharging hospital, and/or the individual's attending physician, written documentation which verifies that each of the defining criteria for an admission for a convalescent stay have been met; and
 - (b) The admitting NF shall retain the documentation required by paragraph (C)(2)(a) of this rule in the individual's resident record at the facility. For individuals enrolling for HCBS waiver III (PASSPORT waived services), the responsible PAA shall retain such documentation in the individual's HCBS waiver III (PASSPORT waived services) record.
- (3) PAS/ID may be initiated by the individual who is seeking the new admission, or by another entity on behalf of the individual.
- (4) PAS/ID must be initiated via the completion of a "PASRR Identification Screen" form (ODHS 3622), and a "Patient Care and Plan of Treatment" form (ODHS 3697) or an alternative form approved by ODHS.
- (5) ODHS, or its designee, shall review the ODHS 3622 form to determine whether

the individual has MR/DD and/or indications of SMI.

- (a) An individual shall be determined to have indications of SMI if the individual:
 - (i) Meets at least two of the three criteria specified in paragraph (B)(16) of this rule; or
 - (ii) Due to a mental impairment, receives supplemental security income (SSI) authorized under Title XVI of the Social Security Act, as amended; or
 - (iii) Due to a mental impairment, receives social security disability insurance (SSDI) authorized under Title II of the Social Security Act.
 - (b) An individual shall be determined to have indications of MR/DD if the individual's condition meets the defining criteria set forth in paragraph (B)(7) of this rule.
- (6) PAS/ID results shall determine whether an individual is subject to further review.
- (a) Individuals determined to have no indications of SMI and/or MR/DD are not subject to further PAS review.
 - (b) Individuals determined to have indications of SMI shall be subject to further review by ODMH in accordance with rule 5122-21-03 of the Administrative Code.
 - (c) Individuals determined to have indications of MR/DD shall be subject to further review by ODMR/DD in accordance with rule 5123:2-14-01 of the Administrative Code.
 - (d) Individuals determined to have indications of both SMI and MR/DD shall be subject to further review by both ODMH and ODMR/DD in accordance with rules 5122-21-03 and 5123:2-14-01 of the Administrative Code.
- (7) When an individual has been determined to have indications of SMI and/or MR/DD, ODHS or its designee shall forward the ODHS 3622 form and the

ODHS 3697 (or an alternative form specified by ODHS) to ODMH and/or ODMR/DD, as appropriate, so that it may be determined whether the individual has SMI and/or MR; and if so, for the PAS/SMI and/or PAS-MR/DD review.

- (8) ODHS, or its designee, shall report the outcome of the PAS/ID to the individual or other entity who initiated the review and, where applicable, indicate the department(s) to which the ODHS 3622 was sent for further review.
- (9) The admitting NF shall maintain the results of the PAS/ID in the individual's resident record at the facility. For individuals enrolling for HCBS waiver III (PASSPORT waived services), the PAA shall maintain the results of the PAS/ID in the individual's HCBS waiver III (PASSPORT waived services) record.

(D) PAS/SMI and PAS-MR/DD determination requirements:

- (1) PAS/SMI and/or PAS-MR/DD must be completed prior to any new admission of an individual determined by ODMH and/or ODMR/DD to have SMI and/or MR/DD unless the individual is a long-term resident as defined in paragraph (B)(6) of this rule.
- (2) For long-term residents, the choice to reside in a NF and to receive specialized services for SMI and/or MR/DD provided by ODMH and/or ODMR/DD is a portable benefit. Therefore, unless there is evidence that the individual's condition has changed such that the individual needs the level of services provided by a NF and/or is no longer in need of specialized services, ODMH and/or ODMR/DD may notify the individual and the receiving NF of the individual's status as a long-term resident and make arrangements for the continued provision of specialized services.
- (3) Section 1919(e)(7) of the Social Security Act prohibits ODMH and/or ODMR/DD from utilizing criteria relating to the need for NF care or specialized services that are inconsistent with that statute and the ODHS approved state plan for medicaid. The approved state plan for medicaid includes level of care criteria, contained in Chapter 5101:3-3 of the Administrative Code. Therefore, ODMH and ODMR/DD may not use criteria inconsistent with Chapter 5101:3-3 of the Administrative Code in making their determinations regarding whether individuals with SMI and/or MR/DD need the level of services provided by a NF.
- (4) The admitting NF shall retain the written notification of the PAS/SMI and/or PAS-MR/DD determinations received from ODMH and/or ODMR/DD in the

individual's resident record at the facility. For individuals enrolling for HCBS waiver III (PASSPORT waived services), the responsible PAA shall retain such determinations in the individual's HCBS waiver III (PASSPORT waived services) record.

(5) Adverse determinations may be appealed in accordance with division level designation 5101:6 of the Administrative Code.

(E) In accordance with Section 1919(e)(7) of the Social Security Act, there shall be no new admission of any individual with SMI or MR/DD, regardless of payment source, unless the individual has either been determined, in accordance with rules 5122-21-03 and/or 5123:2-14-01 of the Administrative Code, to need the level of services provided by a NF, or has qualified for admission under the exempted hospital discharge provision set forth in paragraph (C)(2) of this rule.

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