

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Medical Assistance

Division

Mike Lynch

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5101:3-3-15.1

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Preadmission screening (PAS) requirements for individuals seeking admission to nursing facilities (NFs).**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5111.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.202, 5101.02**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This new rule is being proposed to replace an existing rule with the same number which is being rescinded to update and clarify the policies surrounding the pre-admission screening requirements for persons seeking admission to nursing facilities. The new rule has been reorganized and simplified to make it easier for a reader to understand the pre-admission screening process and to develop a mechanism to provide data for state analysis.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule sets forth preadmission screening requirements in order to comply with section 1919e(7) of the Social Security Act which prohibits nursing facilities from admitting or enrolling individuals with serious mental illness or developmental disabilities unless a thorough evaluation indicates that such placement is appropriate and adequate services will be provided. The department is rescinding the existing rule and bringing forth a new rule with the same number because necessary amendments would affect more than fifty percent of the existing rule. The new rule contains additional changes when compared to the previously effective rule including some of the following: a new hospital exemption process (and new form 07000), additional notice requirements, the ability to request additional information to make a determination, changes in out of state determinations, clarity between pre-admission screening and level of care, and clarity regarding "rule-outs" from preadmission screening.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Info Center" link on the ODJFS web site (<http://jfs.ohio.gov/>) in accordance with RC 121.75(E).

This rule incorporates one or more references to another rule or rules of the Ohio Revised Code. This question is not applicable to incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with ORC 121.76(A)(1).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with ORC 121.76(A)(3).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

8/21/09

This rule is being revised to remove the statute authorizing and amplifying authority of Ohio Revised Code (ORC) 5101.75, 5101.752, 5101.202, 119.032 and to add ORC 5111.202 to the statute amplifying authority.

9/2/09

This rule is being refiled to add clarifying language and update statute referenced in the following paragraphs:

(E)(3)

(G)(7).

10/15/09

The rule is being refiled to add in a word that was inadvertently missed in the original filing. Paragraph (F)(1) currently states that an individual receiving an approved PAS/SMI and/or a PAS/MRDD must be admitted within one hundred and eighty days. This is also true for a PAS/ID. Therefore, the rule is being refiled to add the word "PAS/ID" to Paragraph (F)(1) to assure consistent application.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues /expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase expenditures.

\$689,000

The rule increases expenditures for the department and its designees. The new rule requires the completion of a new form JFS 07000. This new form is completed by hospitals, accepted by nursing facilities, and reviewed by local area agencies on aging, a designee of the department. The area agencies on aging will route forms to the Ohio departments of mental health and developmental disabilities when the forms indicate that a need may exist for a person with mental health or developmental disabilities. The cost associated with the review and routing is expected to be approximately \$689,000 per fiscal year based on an average salary of \$53,000 to add one staff person to each of the 13 area agencies on aging.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

ALI 600-655

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There is no known impact. Hospitals, nursing Facilities, and local Administrators (with the exception of the area agencies on aging, a designee of the department) already have existing responsibilities associated with meeting preadmission screening requirements. The new form 07000 is expected to be merged within already existing hospital discharge paperwork. Nursing facilities are already required to meet the requirements outlined in section 1919e(7) of the Social Security Act including the requirement to only admit persons with mental illness and/or developmental disabilities with a need for nursing facility services. The requirements to verify the hospital discharge paperwork, retain records in the file, and initiate discharge planning when appropriate are already existing requirements of preadmission screening. The new rule brings Ohio into compliance with federal law, provides the State data for analysis and closes loopholes that to date have resulted in the inappropriate placement of persons with mental illness and developmental disabilities in nursing facilities.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**