

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

Agency Name

Division of Medical Assistance

Division

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5101:3-3-15.2

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

**Resident review (RR) requirements for individuals residing in
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: **R.C. 5111.02, 5101.75, 5101.752**

5. Statute(s) the rule, as filed, amplifies or implements: **R.C. 5111.01, 5101.02, 5111.202, 5101.75, 5101.752**

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

The rule is being proposed as a part of the five-year rule review process.

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:

This rule sets forth the requirements that nursing facilities must meet for Resident Review (RR) of residents residing in nursing facilities.

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:

All text or other material incorporated by reference in this rule is readily available via the Internet and public libraries at no cost. The material is also accessible via the Government Printing Office, bookstores and publishers.

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:

N/A

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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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

The following revisions have been made in response to comments during clearance and from interested parties: In paragraph (B)(12)(c) "one" was inserted between "least" and "of" because it had been omitted in error; The twenty-four hour time limit for submission of an RR/ID following identification of a significant change of condition in paragraph (D)(1)(b) was changed to seventy-two hours to accommodate changes that occur over the weekend; The word "accurate" was removed from paragraph (D)(3); paragraph (D)(6)(b)(ii) was revised to clarify that the prohibition on retroactive PASRR determinations means the ODMH and ODMR/DD cannot assign an effective date that is earlier than the date on which the PASRR determination was made; a hyphen was inserted between "division" and "level" in paragraph (G)(8) to correct a typographical error.

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 have no impact on revenues or expenditures.

\$0

The department does not project any increases or decreases in expenditures or revenues associated with the proposed rule.

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

N/A

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 an impact of the rule changes on the industry. Late detection of a facility's failure to complete the preadmission process in compliance with federal regulations and state rules results in facility liability until it is completed. Facility costs may range from \$150 to \$30,000 per incident according to the industry.

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**

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	No	No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The proposed rule, 5101:3-3-15.2 , replaces an existing rule. The changes made in the new rule mainly clarify existing procedures and should neither increase nor decrease expenditures by counties. County departments of job and family services will continue to be involved with the initiation and termination of vendor payment to nursing facilities and establishing financial eligibility for Medicaid consumers who seek NF placements. The policies in this rule are used by the counties to determine the effective dates for vendor payment, but do not change the process. While it is expected that there will be some increase in compliance with the rules due to improved clarity, there should be no fiscal impact to the counties.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

This rule and new rule 5101:3-3-15.1 primarily clarify existing policy and procedures. The changes that are made in these rules may result in some shifting of expenditures from the resident review part of the process to the preadmission screening process, but ODJFS expects the overall cost of the PASRR process to be unaffected by the new versions of this rule and rule 5101:3-3-15.1. The costs of implementing the PASRR process are already included in the state budgets for ODJFS, ODA, ODMR/DD, and ODMH as well as the CDJFS operating budgets.

(a) Personnel Costs

ODJFS does not expect any significant change in personnel costs due to the implementation of this rule as the process to be implemented already exists.

(b) New Equipment or Other Capital Costs

ODJFS does not expect any significant change in equipment/capital costs due to the implementation of this rule as the process to be implemented already exists.

(c) Operating Costs

ODJFS does not expect any significant change in operating costs due to the implementation of this rule as the process to be implemented already exists.

(d) Any Indirect Central Service Costs

ODJFS does not expect any significant change in indirect costs due to the implementation of this rule as the process to be implemented already exists.

(e) Other Costs

ODJFS does not expect any significant change in other costs due to implementation of this rule as the process to be implemented already exists.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Currently responsibility for the non-federal share of costs for conducting the PASRR process lies with ODMH, ODMR/DD, and ODA and is included in their agency budgets. This will not change with implementation of this rule since this

rule replaces an existing rule.

7. Please provide a statement on the proposed rule's impact on economic development.

ODJFS does not expect this rule to have any impact on economic development in Ohio.