

## TO BE RESCINDED

5122-21-03                    **Pre-admission screening and resident review (PASRR) for nursing facility applicants and residents with serious mental illness.**

(A) This rule applies to individuals seeking admission to a nursing facility who have indications of serious mental illness, residents of nursing facilities who have indications of serious mental illness, or individuals acting on the behalf of these applicants or residents. This rule does not apply to individuals seeking readmission to a nursing facility after having been transferred from a nursing facility to a hospital for care nor to individuals being transferred from one nursing facility to another nursing facility, with or without an intervening hospital stay. Individuals subject to the requirements of this rule are referred to the Ohio department of mental health and addiction services (department) in accordance with rules 5160-3-15, 5160-3-15.1, and 5160-3-15.2 of the Administrative Code. All definitions in rule 5160-3-15 of the Administrative Code apply in this rule.

(B) Review and determination process:

(1) Required determinations:

(a) If an individual referred to the department for pre-admission screening (PAS) is determined to have serious mental illness (SMI), the department shall determine whether the individual requires the level of services provided in a nursing facility (NF) and whether the individual requires specialized services for SMI.

(b) If an individual referred to the department for resident review (RR) is determined to have SMI, the department shall determine whether the individual requires the level of services provided in a NF and whether the individual requires specialized services for SMI.

(2) PASRR determinations shall be based on an independent physical and mental evaluation performed by an individual who is not an employee of the department and who does not have a direct or indirect affiliation with a NF. The evaluation may use relevant evaluative data, obtained prior to initiation of the PAS or RR, if the data are considered valid and accurate, and reflect the current functional status of the individual. However, in the case of individualized evaluations, to supplement and verify the currency and accuracy of existing data, the PASRR evaluator may need to gather additional information to assess proper placement and treatment.

- (3) Participation by individual and family: PASRR evaluations must involve the individual being evaluated, the individual's legal guardian of the person if one has been designated under state law, and the individual's family, if available and if the individual or the legal guardian agrees to family participation.
- (4) Adaptation to culture, language, and ethnic origin: PASRR evaluations must be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated.

(C) Data for individualized determinations:

(1) Nursing facility:

- (a) In the case of individualized evaluations, the PASRR evaluator shall gather information that is necessary for determining whether it is appropriate for the individual with SMI to be placed in a NF, or in another appropriate setting, throughout all applicable portions of the evaluation.
- (b) In the case of individualized evaluations, the PASRR evaluator must evaluate whether the NF is the most appropriate setting, taking into account:
  - (i) The individual's total needs and whether they can best be met in a more appropriate community setting;
  - (ii) If institutional care is appropriate, the most appropriate institutional setting for meeting those needs; and
  - (iii) The relationship of the individual's physical and mental needs, taking into account the severity of each condition and relative priority of each.
- (c) In order to evaluate and determine the need for the level of services provided in a NF, the data shall include:
  - (i) Evaluation of physical status;
  - (ii) Evaluation of mental status; and
  - (iii) Functional assessment.
- (d) A comprehensive history and physical examination. The following areas must be included (if not previously addressed):

- (i) Complete medical history;
  - (ii) Review of all body systems;
  - (iii) Specific evaluation of the person's neurological system in the areas of motor functioning, sensory functioning, gait, deep tendon reflexes, cranial nerves, and abnormal reflexes; and
  - (iv) In the case of abnormal findings which are the basis for a NF placement, additional evaluations conducted by appropriate specialists; and
- (e) A comprehensive drug history including current or immediate past use of medications that could mask or mimic symptoms of mental illness;
- (f) A psychosocial evaluation of the person, including current living arrangements and medical and support systems;
- (g) A comprehensive psychiatric evaluation including a complete psychiatric history, evaluation of general intellectual functioning, memory functioning, orientation, description of current attitudes and overt behaviors, affect, suicidal or homicidal ideation, paranoia degree of reality testing (presence and content of delusions) and hallucinations;
- (h) A functional assessment of the individual's ability to engage in activities of daily living and the level of support that would be needed to assist the individual to perform these activities while living in the community. The assessment must determine whether this level of support can be provided to the individual in an alternative community setting or whether the level of support needed is such that NF placement is required; and
- (i) The functional assessment must address the following areas: self-monitoring of health status; self-administering and scheduling of medical treatment, including medication compliance; self-monitoring of nutritional status; handling money; dressing appropriately; and grooming.
- (2) Specialized services, as defined in rule 5160-3-15 of the Administrative Code: In order to evaluate and determine the need for specialized services for SMI, the data shall include all of the information required for a NF determination, as outlined in paragraph (C)(1) of this rule.
- (3) The evaluation may be terminated if the PASRR evaluator finds at any time during the evaluation that the individual being evaluated does not have SMI.

- (4) The PASRR evaluator shall interpret and explain the findings of the evaluation to the individual and, where applicable, to the individual's legal guardian of the person.
- (5) When an applicant is diagnosed with primary dementia, the PASRR reviewer will review the application and supporting documentation to validate the diagnosis. If the diagnosis is found to be well documented, the applicant will not require any further PASRR review. If unable to validate the diagnosis, the applicant will be referred for a level II PASRR evaluation.

(D) Evaluation reports:

- (1) In the case of individualized evaluations, the PASRR evaluator shall issue findings in the form of a written evaluative report which:
  - (a) Identifies the name and professional title of the person(s) who performed the evaluation(s) and the date on which each portion of the evaluation was administered;
  - (b) Provides a summary of the medical and social history, including the positive traits, or developmental strengths and weaknesses, or developmental needs of the evaluated individual;
  - (c) If NF services are recommended, identifies the specific services which are required to meet the evaluated individual's needs, including any mental health services which are of a lesser intensity than specialized services;
  - (d) If specialized services are not recommended, identifies any mental health services which are of a lesser intensity than specialized services that are required to meet the evaluated individual's needs;
  - (e) If specialized services are recommended, those services must be delivered in a hospital licensed or operated by the department, in accordance with rules 5160-3-15.1 and 5160-3-15.2 of the Administrative Code; and
  - (f) Includes the bases for the report's conclusions.
- (2) In accordance with rules 5160-3-15.1 and 5160-3-15.2 of the Administrative Code, a copy of the individualized evaluation report shall be sent to:
  - (a) The department;
  - (b) The evaluated individual and, where applicable, his/her legal guardian of the person;

- (c) The individual's attending physician;
  - (d) The admitting or retaining NF for inclusion in the individual's medical record;
  - (e) The discharging hospital if the individual is seeking NF admission from a hospital;
  - (f) The county department of job and family services;
  - (g) The ADAMH/CMH board of the individual's county of residency; and
  - (h) In the case of an adverse RR determination, the Ohio department of medicaid.
- (3) In the case of categorical determination, the department shall issue findings in the form of a written report which:
- (a) Identifies the name and professional title of the person(s) applying the categorical determination(s) and the date on which the application was made;
  - (b) Explains the categorical determination(s) that has (have) been made and, if only one of the two required determinations can be made categorically, describes the nature of any further screening which is required;
  - (c) Identifies, to the extent possible based on the available data, NF services, including any mental health or specialized psychiatric rehabilitative services that may be needed; and
  - (d) Includes the bases for the report's conclusions.
- (E) Personnel requirements:
- (1) The history and physical examination shall be performed by a registered nurse, clinical nurse specialist, certified nurse practitioner, an individual registered by the state medical board as a physician assistant under Chapter 4730. of the Revised Code or by a physician. If not performed by a physician, then a physician must review and concur with the conclusions. If the examination is performed by a clinical nurse specialist or certified nurse practitioner who has entered into a standard care arrangement with a collaborative physician as noted in section 4723.431 of the Revised Code, physician review is only required as indicated in the standard care arrangement.

(2) The following identifies those individuals who are eligible to be PASRR evaluators. Licensed, certified or registered individuals, including those not permitted by scope of practice to perform PASRR evaluations without supervision, shall comply with current, applicable scope of practice and supervisory requirements identified by appropriate licensing, certifying or registering bodies. Administrative supervision may be provided in accord with agency protocols.

(a) Physician;

(b) Registered nurse;

(c) Licensed social worker;

(d) Licensed independent social worker;

(e) Professional counselor;

(f) Professional clinical counselor;

(g) Licensed marriage and family therapist;

(h) Licensed independent marriage and family therapist;

(i) Psychology intern;

(j) Psychology fellow;

(k) Psychology assistant; and

(l) Psychologist.

(F) Determinations.

Based on the information submitted, the department shall do all of the following:

(1) Determine whether the individual meets the criteria for SMI as defined in rules 5160-3-15.1 and 5160-3-15.2 of the Administrative Code;

(2) Determine whether the individual requires the level of services provided by a NF based on a comprehensive analysis of all data, consideration of the most appropriate placement such that the individual's needs for treatment do not exceed the level of services which can be delivered in the NF through NF services alone or, where necessary, through specialized services at a psychiatric hospital operated or licensed by the department, and in accordance

with the requirements specified in rules 5160-3-15.1 and 5160-3-15.2 of the Administrative Code.

(a) Individualized determinations.

Unless categorically determined to require the level of services provided by a NF, all determinations regarding whether an individual requires the level of services of a NF shall be based on an individualized evaluation conducted in accordance with paragraph (B) of this rule.

(b) Categorical determinations.

(i) A categorical determination that an individual requires the level of services provided by a NF may be made when:

(a) The individual is, within the next sixty days, being admitted for up to fourteen days for respite, plans to return to the care of the caregiver at the end of the NF stay, and does not need specialized services; or

(b) The individual is seeking admission to a nursing facility, that is not to exceed a seven day stay, because a situation involving the individual's health and safety necessitates immediate placement in a nursing facility to avoid serious harm to the individual, when the individual is seeking such placement:

(i) Within twenty-four hours from the date of the categorical determination; or,

(ii) Immediately following discharge from a hospital setting.

(ii) In the event that the individual's stay may exceed the time specified, the admitting NF shall notify the department prior to the expiration of the specified time and an RR shall be completed within nine working days after notification;

(3) If required by paragraph (B)(1) of this rule, determine whether there is a need for specialized services for serious mental illness.

(a) An individual shall be considered to be in need of specialized services for serious mental illness if he or she:

- (i) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
- (ii) Represents a substantial risk of physical harm to others as manifested by evidence of threats of, or attempts at homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;
- (iii) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that he/she is unable to provide for and is not providing for his/her basic needs because of his/her mental illness and that appropriate provision for such needs cannot be made immediately available in the community;
- (iv) Would benefit from treatment in an inpatient setting for his/her mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or self; or
- (v) Is experiencing an acute episode of mental illness which can reasonably be expected to respond to time limited treatment that is directed toward diagnosing and reducing the individual's behavioral symptoms, improving his or her level of independent functioning, and, achieving a functional level that permits reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time.

(b) Individualized determinations.

Unless categorically determined to not require specialized services for SMI, all determinations of the need for specialized services for SMI shall be individualized and based on the data requirements specified in paragraph (B) of this rule.

(4) Identify placement options, which are:

- (a) Can be admitted to a NF. Any applicant for admission to a NF who has SMI and who is determined to require the level of services provided by a NF in accordance with paragraph (F)(2) of this rule, may be admitted to a NF.



- (b) Cannot be admitted to a NF. Any applicant for admission to a NF who has SMI and who is determined not to require the level of services provided by a NF in accordance with paragraph (F)(2) of this rule, is inappropriate for NF placement and must not be admitted.
- (c) Can be considered appropriate for continued placement in a NF. Any NF resident with SMI who is determined to require the level of services provided by a NF in accordance with paragraph (F)(2)(a) of this rule can continue to reside in the NF.
- (d) If the resident has resided in the NF for thirty months or longer, may choose to remain in the NF only if specialized services are required or is determined to require the level of services provided by a NF.
- (e) Any long-term resident, as defined in rule 5160-3-15 of the Administrative Code, with SMI who is determined not to require the level of services provided by a NF in accordance with paragraph (D)(2) of this rule, but to require specialized services, must receive those services in a hospital licensed or operated by the department. Upon completion of specialized services, the individual may return to the NF if he or she chooses to do so, but which requires the NF to request a new RR.
- (f) Cannot be considered appropriate for continued placement in a NF and must be discharged. Any NF resident with SMI who is determined not to require the level of services provided by a NF in accordance with paragraph (F)(2) of this rule, but to require specialized services for SMI, and who is not a long-term resident, must be discharged in accordance with 42 CFR 483.12(a) (dated October 1, 2002) to an appropriate setting where the department must provide specialized services for SMI. The determination notice must provide information on how, when, and by whom the resident will be advised of discharge arrangements and of his/her appeal rights under both PASRR and discharge provisions.
- (g) Cannot be considered appropriate for continued placement in a NF and must be discharged. Any NF resident with SMI who is determined not to require the level of services provided by a NF in accordance with paragraph (F)(2) of this rule, and not to require specialized services for SMI, regardless of his or her length of stay, must be discharged in accordance with 42 CFR 483.12(a) (dated October 1, 2002). The determination notice must provide information on how, when, and by whom the resident will be advised of discharge arrangements and of his/her appeal rights under both PASRR and discharge provisions.

- (i) The department shall notify the community mental health board (ADAMH/CMH board), as defined in paragraph (B)(21) of rule 5122-24-01 of the Administrative Code, in the individual's mental health county of residency of the need to begin discharge planning in conjunction with the NF.
  - (ii) The ADAMH/CMH board shall seek to determine which, if any, agency served the individual prior to admission to the NF and shall notify the agency to contact the individual and the NF with an offer to begin discharge planning in conjunction with the NF. If there is no agency of record, the board shall identify one.
- (5) Coordinate the determination(s) with the department of developmental disabilities, if the individual is also subject to PASRR due to developmental disability.
- (6) All determinations shall include specific recommendations as to the services needed by the individual to address the severe mental illness.
- (7) The department will determine PASRR applications within the national standard of seven to nine business days, from referral for a level II evaluation.

(G) Notification.

The department shall notify, in writing, all persons specified in paragraph (D)(2) of this rule of the following:

- (1) The determination as to whether the individual requires the level of services provided by a NF;
  - (2) The determination as to whether the individual requires specialized services for SMI;
  - (3) The placement and/or service options that are available to the individual consistent with these determinations;
  - (4) Discharge arrangements, if applicable; and
  - (5) The right to appeal as outlined in paragraph (I) of this rule.
- (H) Criteria for a hospital exemption, as defined in rule 5160-3-15 of the Administrative Code.
- (1) The following individuals are eligible for a hospital exemption:

- (a) The individual will be admitted to a nursing facility directly from an Ohio hospital or a unit of a hospital that is not operated by or licensed by OhioMHAS under section 5119.14 or section 5119.33 of the Revised Code, after receiving acute inpatient care at that hospital; or
  - (b) The individual is an Ohio resident who will be admitted to a nursing facility directly from an out-of-state hospital that is not an out-of-state psychiatric hospital or psychiatric unit within an out-of-state hospital, after receiving acute inpatient care at that hospital.
- (2) Individuals, as described in paragraph (H)(1) of this rule are eligible for a hospital exemption when:
- (a) The individual requires the level of services provided by a nursing facility for the condition for which he or she was treated in the hospital; and
  - (b) The individual's attending physician provides written certification that is 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 nursing facility for less than thirty days.

(I) Hospital exemption monitoring.

Upon notification from the PASSPORT administrative agency of the utilization of a hospital exemption, in accordance with rule 5160-3-15.1 of the Administrative Code, the department shall begin to monitor the admission.

- (1) The department shall immediately notify the ADAMH/CMH board in the individual's mental health county of residency of the need to begin discharge planning in conjunction with the NF.
- (2) The ADAMH/CMH board shall seek to determine which, if any, agency served the individual prior to admission to the NF and shall notify the agency to contact the individual and the NF with an offer to begin discharge planning in conjunction with the NF. If there is no agency of record, the ADAMH/CMH board shall identify one.
- (3) If there are indications that the NF believes that the individual will need more than the specified up to thirty-day stay, the department will initiate an RR.

(J) Appeals:

- (1) The individual or his or her authorized representative may appeal adverse determinations made by the department within ninety calendar days of the date

of determination by filing an appeal with the department of job and family services in accordance with division 5101:6 of the Administrative Code.

In accordance with rules 5160-3-15.1 and 5160-3-15.2 of the Administrative Code, the individual must be discharged in accordance with Chapter 3721. of the Revised Code.

- (2) The department shall conduct an informal reconsideration of the case when notified of the appeal or at the request of the individual or authorized representative consisting of a reexamination of the documentation including any additional information submitted after the date of the determination describing the physical and mental condition of the individual at the time of the determination.
- (3) If the individual is subject to pre-admission screening or resident review due to both SMI and mental retardation and/or other developmental disabilities, the informal reconsideration and appeal shall be conducted jointly with the department of developmental disabilities.

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Five Year Review (FYR) Dates: 10/4/2019

CERTIFIED ELECTRONICALLY

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Certification

12/17/2019

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Date

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