

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-3-15.1

Rule Type: Amendment

Rule Title/Tagline: Preadmission screening requirements for individuals seeking admission to nursing facilities.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?** 12/30/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5164.02
5. **What statute(s) does the rule implement or amplify?** 5164.02 , 5119.40
6. **What are the reasons for proposing the rule?**

On March 13, 2020 the President of the United States issued a proclamation that the COVID-19 outbreak constituted a national emergency. As a response to a significant decrease in access to services and resources as well as several national restrictions on travel, ODM sought to implement additional flexibilities that would allow LOC determinations to continue so that individuals may have uninterrupted access to the services they need. The proposed amended rules were initially approved as emergency rules in response to the pandemic and certain flexibilities are now being proposed as permanent changes. Proposed changes to the rule are outlined below.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

For a state to have its Medicaid plan approved by the Centers for Medicare and Medicaid Services (CMS), it must maintain a Preadmission and Resident Review (PASRR) program. PASRR is a process to ensure that all individuals seeking admission into a Medicaid certified nursing facility are thoroughly evaluated, that they are placed in nursing facilities only when appropriate, and that they receive all necessary services while they are there.

PASRR Regulations, specifically, Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138 requires that states administer a PASRR program that has two steps. First, all individuals who apply for admission to Medicaid-certified nursing facilities (NFs) must be "screened" for evidence of serious mental illness (SMI) and/or developmental disabilities (DD) or related conditions, regardless of payor source. The C.F.R. calls this screening a Level I screen.

Individuals who show indications of an SMI and/or DD are then referred to the Ohio Department of Mental Health and Addiction Services (OhioMHAS) and/or Ohio Department of Developmental Disabilities (DODD) and receive a more in-depth evaluation to determine whether they have such a disability. The C.F.R. calls this a Level II evaluation. The Level II evaluation produces recommendations for the setting in which services should be received and recommendations for specialized services, and these recommendations are intended to inform the individual's plan of care.

Medicaid-certified NFs are prohibited from admitting individuals who have indications of either SMI and/or DD prior to obtaining a PASRR Level II evaluation and determination. To ensure that residents with known PASRR disability are having their total needs met, the state must periodically review the SMI/DD status of NF residents. The Resident Review is initiated by the NF whenever a resident undergoes a significant change in status and that change has a material impact on their functioning as it relates to their SMI/DD status.

Changes to rule 5160-3-15.1 include:

- Allowing PASRR evaluations to occur by telephone, desk review, or video conference as well as face-to-face visits.
- Corrected language pertaining to categorical determinations.

8. Does the rule incorporate material by reference? Yes

9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Administrative Code. This question is not applicable to any incorporation by reference to another Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more dated references to an ODM form. Each cited ODM form is dated and is generally available to persons affected by this rule via the "Resources" and "Publications" links on the ODM web site (<http://medicaid.ohio.gov/>).

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(A)(2)(c).

This rule incorporates one or more dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A)(1)(c) and 121.75(A)(2)(d).

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Medicaid-certified nursing facilities are responsible for ensuring that individuals seeking admission to their facility are screened for evidence of serious mental illness

(SMI) and/or developmental disabilities (DD), or related conditions regardless of payor source and for referring individuals who show indications of an SMI and/or DD to the Ohio Department of Mental Health and Addiction Services (OhioMHAS) and/or Ohio Department of Developmental Disabilities (DODD) for a Level II evaluation and determination prior to granting admission.

The previous adoption of rules as part of the five-year rule review process required that both Level I screenings and resident review submissions be conducted electronically, which proved beneficial in reducing the amount of time previously spent manually submitting screening requirements. Electronic submission has also enabled the nursing facility to receive instant determinations for individuals that do not have indications of an SMI and/or DD and allow for immediate referral to the Ohio Department of Mental Health and Addiction Services (OhioMHAS) and/or Ohio Department of Developmental Disabilities (DODD) for a Level II evaluation, when applicable. Electronic submission has enabled nursing facilities to track the screening and resident reviews which is useful for follow ups. Overall, electronic submission of preadmission screening and resident reviews has proven beneficial to individuals seeking admission to a Medicaid certified nursing facility by eliminating unnecessary delays when processing required PASRR documents.

The costs associated with completing the required PASRR documents would be estimated by calculating the average timeframe to complete the screening or review and the average hourly salary of the employee submitting the screening or review.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office? Yes**
17. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

Compliance with PASRR regulations is mandatory in accordance with 42 C.F.R. 483.100-483.138. Medicaid-certified nursing facilities are required to screen individuals seeking admission to a Medicaid-certified nursing facility for indications of serious mental illness (SMI) and/or a developmental disability (DD) and not admit such individuals unless a thorough evaluation indicates that such placement is appropriate and adequate services will be provided regardless of payor source prior to admission.

In order to complete the preadmission screening process, nursing facilities must submit a level 1 screening via ODM's designated electronic system. Nursing facilities must also submit specific forms to report an individual being admitted directly from a hospital or admitted for short-term stay under a categorical determination of an emergency or respite NF stay. Nursing facilities must also provide individuals with notice of any adverse determinations made during the screening process.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

- 18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No**

- A. How many new regulatory restrictions do you propose adding?**

Not Applicable

- B. How many existing regulatory restrictions do you propose removing?**

Not Applicable