

**Rule Summary and Fiscal Analysis (Part A)****Ohio Department of Medicaid**

Agency Name

Division

**Tommi Potter**

Contact

**50 Town St 4th floor Columbus OH 43218-2709**

Agency Mailing Address (Plus Zip)

**614-752-3877**

Phone

Fax

**tommi.potter@medicaid.ohio.gov**

Email

**5160-3-15.1**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Preadmission screening requirements for individuals seeking admission to nursing facilities.****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? **Yes**

Bill Number: **HB59**General Assembly: **130**Sponsor: **Amstutz**

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: **5164.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5119.40, 5162.03, 5164.02, 5165.03**

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

This rule is being filed as new because more than fifty percent of the current rule has been changed in accordance with Amended Substitute H.B. No. 59, which took effect September 29, 2013. The legislation created restrictions on the utilization of the hospital exemption for certain individuals. This rule replaces rescinded rule

number 5160-3-15.1.

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 preadmission screening requirements for individuals seeking admission in to Medicaid certified nursing facilities. The rule is being rescinded and adopted as new to reflect the statutory changes to the hospital exemption policy in accordance with section 5119.40 of the Revised Code.

Other changes to rule 5160-3-15.1 include:

Changed state agency name references and rule number references; and

Added a date after which hospitals will be required to submit a hospital exemption request electronically through the system approved by ODM.

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 references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 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 any incorporation by reference to the Ohio Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more dated references to the Social Security Act. This question is not applicable to any dated references in this rule because such dated references are exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(B)(2).

This rule incorporates one or more dated references to a JFS form or forms. Each cited JFS form is dated and is generally available to persons affected by this rule via the "Resources/ Publications/Forms Central" link on the Ohio Department of Medicaid web site (<http://medicaid.ohio.gov>) in accordance with RC 121.75(E).

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. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

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.

\$0.00

The proposed rule will have no impact on the projected budget during the current biennium.

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

Not Applicable

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:

The business community impacted by these rules are the Ohio Department of Mental Health and Addiction Services (MHAS) licensed hospitals and psychiatric wards.

Estimated expenditures developed in conjunction with the business community predict that for each individual who remains in a hospital or psychiatric ward awaiting preadmission screening costs the facility approximately one thousand dollars per day. The federal guidelines for conducting preadmission screening recommend completing the screening within seven to nine business days from the time of the request from the facility. MHAS has typically completed the screening in two to three business days. Based on an average of a seven calendar day turnaround for screenings and 1,800 screenings per year, the estimated cost to stakeholders is \$12.6 million a year. Due to the statutory changes to the hospital exemption policy, stakeholders are already impacted by the loss of the hospital exemption regardless of the proposed rule change.

In an effort to mitigate the effect of this rule change on the impacted facilities, MHAS is implementing an expedited screening process. The expedited screening will be completed in no more than forty-eight hours after the request is received from the hospital. The expedited screening is expected to cost MHAS up to \$0.5 million per year to conduct, with seventy-five percent of that cost reimbursed by the federal government. As a result of this investment, it is expected that the impact on stakeholders will be reduced considerably from \$12.6 million to an estimated \$3.6 million.

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**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to

R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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? **Yes**

A nursing facility could be subject to penalties for failing to adhere to their provider agreement. Under section (B)(7) of this rule, nursing facilities which, whether intentionally or otherwise, accept any new admission, readmission, or nursing facility transfer in violation of this rule are in violation of their medicaid provider agreements.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

The business community impacted by these rules are the Ohio Department of Mental Health and Addiction Services (MHAS) licensed hospitals and psychiatric wards.

Estimated expenditures developed in conjunction with the business community predict that for each individual who remains in a hospital or psychiatric ward awaiting preadmission screening costs the facility approximately one thousand dollars per day. The federal guidelines for conducting preadmission screening recommend completing the screening within seven to nine business days from the time of the request from the facility. MHAS has typically completed the screening in two to three business days. Based on an average of a seven calendar day turnaround for screenings and 1,800 screenings per year, the estimated cost to stakeholders is \$12.6 million a year. Due to the statutory changes to the hospital exemption policy, stakeholders are already impacted by the loss of the hospital exemption regardless of the proposed rule change.

In an effort to mitigate the effect of this rule change on the impacted facilities, MHAS is implementing an expedited screening process. The expedited screening will be completed in no more than forty-eight hours after the request is received from the hospital. The expedited screening is expected to cost MHAS up to \$0.5 million per year to conduct, with seventy-five percent of that cost reimbursed by the federal government. As a result of this investment, it is expected that the impact on stakeholders will be reduced considerably from \$12.6 million to an estimated \$3.6 million.