

5160-3-15.2 **Resident review (~~RR~~) requirements for individuals residing in nursing facilities (~~NFs~~).**

- (A) The purpose of this rule is to set forth ~~the~~ resident review (RR) requirements ~~which must be met in order to comply~~ compliance with section 1919 (e)(7) of the Social Security Act, as in effect on January 1, 2014, ~~amended~~ which prohibits nursing facilities from retaining individuals with serious mental illness (SMI) (~~as defined in paragraph (B)(32) of rule 5101:3-3-145160-3-15 of the Administrative Code~~) or mental retardation and/or other developmental disabilities (MRDD) hereafter referred to as developmental disabilities (DD) (~~as defined in paragraph (B)(16) of rule 5101:3-3-145160-3-15 of the Administrative Code~~) unless a thorough evaluation indicates that such placement is appropriate and adequate services are provided.
- (B) Resident review identification (RR/ID) is required for ~~all individuals~~ an individual who meets any of the following criteria:
- (1) The individual was admitted under the exemption from the preadmission screening identification (PAS/ID) provision set forth in ~~paragraph (C) of rule 5101:3-3-15.15160-3-15.1~~ 5160-3-15.1 of the Administrative Code, and has since been found to require more than thirty days of services at the ~~NF~~ nursing facility level; or
  - (2) The individual's admission is a ~~NF~~ nursing facility transfer; as defined in ~~paragraph (B)(19) of rule 5101:3-3-145160-3-15 of the Administrative Code~~, or a ~~NF~~ nursing facility readmission as defined in ~~paragraph (B)(25) of rule 5101:3-3-145160-3-15 of the Administrative Code~~ and there are no preadmission screening and resident review (PASRR) records available from the previous ~~NF~~ nursing facility placement; or
  - (3) The individual had been in a ~~different NF~~ nursing facility and was admitted directly into a different nursing facility following an intervening hospital stay for psychiatric treatment, or was readmitted to the same ~~NF~~ nursing facility directly following a hospital stay for psychiatric treatment, and since the last PASRR determination, has experienced a significant change in condition as defined in ~~paragraph (B)(33) of rule 5101:3-3-145160-3-15 of the Administrative Code~~; or
  - (4) The individual has experienced a significant change in condition as defined in ~~paragraph (B)(33) of rule 5101:3-3-145160-3-15 of the Administrative Code~~; or
  - (5) The individual received a categorical preadmission screening serious mental illness (PAS/SMI) ~~PAS-SMI~~ or preadmission screening ~~PAS-MRDD~~

developmental disability (PAS/DD) determination as defined in paragraph (B)(3) of rule 5101:3-3-145160-3-15 of the Administrative Code, and has since been found to require a stay in a NF nursing facility that will exceed the specified time limit for that category; or

- (6) The individual received ~~an RR~~ a resident review determination for a specified period of time as established by the Ohio department of developmental disabilities (DODD) and/or Ohio department of mental health and addiction services (~~ODMH~~OhioMHAS) and has since been found to require a stay in a NF nursing facility exceeding the specified period of time.

(C) Resident review identification (RR/ID) requirements:

- (1) The NF nursing facility shall initiate a resident review by completing and submitting the Ohio department of medicaid (ODM) 03622 "Preadmission Screening/Resident Review (PAS/RR) Identification Screen" (rev. 8/2014) or by completing and submitting the RR/ID via the electronic system approved by ODM. The submitter shall include supporting documentation with the ODM 03622 or within the electronic system in order to validate the answers on the ODM 03622.

(a) For those individuals specified in paragraph (B)(1) of this rule, as soon as (and no later than the twenty-ninth day from the date of admission) the NF nursing facility has reason to believe the individual may need to remain in a NF nursing facility for thirty days or more.

(b) For those individuals specified in paragraph (B)(2) of this rule, as soon as the NF nursing facility finds that no PASRR records are available from the previous NF nursing facility placement.

(c) For those individuals specified in paragraphs (B)(3) and (B)(4) of this rule, as soon as the NF nursing facility has reason to believe a significant change may have occurred. The completed RR/ID request for an individual with indications of ~~MRDDDD~~ or SMI must be submitted to DODD and/or ~~ODMH~~OhioMHAS within seventy-two hours following identification of the significant change.

(d) For those individuals specified in paragraph (B)(5) of this rule, as soon as the NF nursing facility has reason to believe the individual may need to remain in a NF nursing facility beyond the expiration date of the categorical determination but no later than the date of the expiration of the categorical determination. If the individual has indications of ~~MRDD~~ DD and/or SMI, the completed RR/ID request must be

submitted to DODD and/or ~~ODMH~~OhioMHAS no later than the expiration date of the categorical determination.

(e) For those individuals specified in paragraph (B)(6) of this rule, at least thirty days prior to the expiration of the determination.

~~(2) The NF shall initiate the RR/ID via the completion of a PASRR Identification Screen form (JFS 03622) (rev. 11/09) and is responsible for ensuring that necessary documentation for all individuals subject to RR/ID is submitted timely.~~

~~(3)(2) The NF nursing facility shall review the completed JFS ODM 03622 form or RR/ID completed via the ODM-approved electronic system to ensure it is completed accurately and to determine whether the individual has indications of SMI and/or MRDDDD (as defined in paragraphs (B)(3)(a) and (B)(3)(b) of rule 5101:3-3-15.15160-3-15 of the Administrative Code).~~

(a) Individuals determined to have indications of SMI shall be subject to further resident review (RR/SMI) by the ~~ODMH~~OhioMHAS in accordance with rule 5122-21-03 of the Administrative Code.

(b) Individuals determined to have indications of ~~MRDDDD~~ shall be subject to further resident review (RR/DD) by the DODD in accordance with rule 5123:2-14-01 of the Administrative Code.

(c) Individuals determined to have indications of both SMI and ~~MRDDDD~~ shall be subject to further resident review by both ~~ODMH~~OhioMHAS and DODD in accordance with this rule and rules 5122-21-03 and 5123:2-14-01 of the Administrative Code.

(d) Individuals determined to have no indications of SMI and/or ~~MRDDDD~~ are not subject to further ~~RR~~ resident review.

~~(4)(3) Routing of a completed JFS ODM 03622 and supporting documentation:~~

(a) For individuals determined to have no indications of either ~~MRDDDD~~ or SMI, the ~~NF~~ nursing facility shall ~~place and~~ maintain the ~~JFS ODM 03622~~ and all supporting evidence in the resident's record at the facility. When using the ODM approved electronic system to complete the RR/ID, all related documentation must be printed and maintained in the resident's record at the facility.

- (b) For individuals determined to have indications of ~~either or both~~ SMI and/or ~~MRDDDD~~, the NF nursing facility shall timely submit to ~~ODMHOhioMHAS~~ and/or DODD, as appropriate, the ~~JFSODM 03622 form, supporting documentation supporting the JFS 03622, as well as~~ ODM 03622 form, supporting documentation supporting the JFS 03622, as well as and documentation of the individual's current condition and including evidence of the individual's need for services ~~at the in a NF level nursing facility. The nursing facility may submit this documentation using the electronic system approved by ODM. If medicaid is the payer, such documentation must also include the ODM-approved level of care assessment. JFS 03697, 'level of care assessment' form (rev. 4/03).~~
- (c) For individuals determined to have indications of ~~MRDDDD~~ and/or SMI, the NF nursing facility is responsible for the accurate and timely submission of the RR/ID request to DODD and/or ~~ODMHOhioMHAS~~ in accordance with the provisions of this rule.
- ~~(5)~~(4) If the individual is subject to RR/SMI and/or RR/~~MRDDDD~~ and there is no record of the determinations in the medical record and/or no indication that they are in progress, the NF nursing facility shall notify ~~ODMHOhioMHAS~~ and/or DODD.
- ~~(6)~~(5) If an individual who is subject to RR/ID has indications of ~~MRDDDD~~ and/or SMI and is discharged from the NF nursing facility after submission of the RR/ID request but prior to the determination, and/or prior to the due date for the request, the NF nursing facility will notify DODD and/or ~~ODMHOhioMHAS~~.
- ~~(7)~~(6) If an individual is to be transferred to another Ohio NF nursing facility after submission of the RR/ID request but prior to receipt of the RR/ID, RR/~~MRDDDD~~ and/or RR/SMI determinations:
- (a) The sending NF nursing facility must notify DODD and/or ~~ODMHOhioMHAS~~ of the transfer. Such notice must be written and must be provided to DODD and/or ~~ODMH OhioMHAS~~ not later than the day the individual is transferred. The sending NF nursing facility must provide sufficient contact information to enable the completion of the RR process.
- (b) At or prior to the time the individual is transferred, the sending NF nursing facility must also provide the receiving NF nursing facility with copies of all PASRR related documents pertaining to the individual and written notice of the individual's current status with regard to PASRR.

If known, the notice must include contact information for the RR evaluator assigned by ~~ODMH~~OhioMHAS and/or DODD.

- (c) The receiving ~~NF~~nursing facility must not accept the individual as a ~~NF~~nursing facility transfer unless it receives this information at or prior to the time the individual is admitted to the receiving ~~NF~~nursing facility.
- (d) If the transferring individual is medicaid eligible at the time of the transfer, the sending ~~NF~~nursing facility must also provide written notice of the transfer and the current PASRR status of the individual to ~~ODJFS~~ODM or its designee. Such notice must be provided no later than the date on which the individual is transferred.
- ~~(8)(7)~~ ~~NF~~A nursing facility that, intentionally or otherwise, accepts any readmission or ~~NF~~nursing facility transfer, or retains as a resident any individual in violation of this rule ~~are~~is in violation of ~~their~~its medicaid provider ~~agreements~~agreement. This is true regardless of the payment source for the individual's ~~NF~~nursing facility stay.
- ~~(9)(8)~~ If it is determined that the ~~NF~~nursing facility failed to initiate the RR/ID in accordance with this rule, an RR/ID may be initiated by the individual or by any state agency or their designee responsible for PASRR or by another entity on behalf of the individual. The ~~NF~~nursing facility is ultimately responsible to ensure that the RR/ID is completed and the determination is on file.
- ~~(10)(9)~~ Individuals who have indications of SMI or ~~MRDDDD~~ shall not be considered to have completed the ~~RR~~resident review process until ~~ODMH~~OhioMHAS and/or DODD have issued the RR/SMI and/or RR/~~MRDDDD~~ determinations.
- ~~(11)(10)~~ The ~~NF~~nursing facility shall maintain the ODM 03622, all supporting documentation and results of the RR/ID in the ~~individual's~~ resident's record at the facility. When using the ODM-approved electronic system to complete the RR/ID, this documentation must be printed and maintained in the resident's record at the facility.

(D) RR/SMI and RR/~~MRDDDD~~ determination requirements:

- (1) No individual with SMI or ~~MRDDDD~~ shall be retained as a resident in a ~~NF~~nursing facility, regardless of payment source, unless it has been determined; in accordance with rules 5122-21-03 and 5123:2-14-01 of the

Administrative Code, that:

- (a) The individual needs the level of services provided by a NF nursing facility; or
  - (b) The individual had resided in a NF nursing facility for at least thirty months at the time of the first RR resident review determination that established that the individual does not require the level of services provided by a NF nursing facility and requires specialized services only; and the individual has chosen to remain in a NF nursing facility following receipt of information pertaining to service alternatives to nursing facility placement.
- (2) ~~ODMH~~OhioMHAS and/or DODD may approve a determination that the level of services provided by a NF nursing facility are needed to best meet the individual's needs long term and for an unspecified period of time.
- (3) ~~ODMH~~OhioMHAS and/or DODD may approve a determination that the level of services provided by a NF nursing facility are needed to best meet the individual's needs short term and for a specified period of time ~~in order to meet the individual's needs~~.
- (a) ~~ODMH~~OhioMHAS and/or DODD may approve such a determination for no more than one hundred eighty days.
  - (b) ~~ODMH~~OhioMHAS and/or DODD shall not issue an extension to the initial determination without ~~ODJFS~~SODM approval. Extensions shall not exceed ninety days.
  - (c) In conjunction with local entities, the NF nursing facility shall initiate and continue discharge planning activities throughout the period of time specified on the determination notice.
  - (d) In order to receive consideration for an extension to the initial determination, the NF nursing facility shall initiate an RR/ID at ~~last~~least thirty days prior to the expiration of the determination. A request for an extension shall include documentation of discharge planning activities. The written record of discharge planning activities shall include the alternative settings and services explored and the steps taken to ensure that a safe and orderly discharge occurs.
- (4) RR/SMI is required for all individuals who were determined by ~~ODMH~~

OhioMHAS during the RR/ID, in accordance with this rule and rule 5122-21-03 of the Administrative Code, to have SMI.

- (5) RR-~~MR~~/DD is required for all individuals who were determined by DODD during the RR/ID in accordance with this rule and rule 5123:2-14-01 of the Administrative Code, to have ~~MR~~DD.
- (6) Individuals with both SMI and ~~MR~~DD are subject to both RR/SMI and RR-~~MR~~DD.
- (7) ~~ODMH~~OhioMHAS and/or DODD are prohibited from utilizing criteria relating to the need for ~~NF~~nursing facility care or specialized services that are inconsistent with the statute and the ~~ODJFS~~ODM approved state plan for medicaid. The approved state plan for medicaid includes level of care criteria, contained in Chapter ~~5101:3-3~~5160-3 of the Administrative Code. Therefore, ~~ODMH~~OhioMHAS and DODD must use criteria consistent with Chapter ~~5101:3-3~~5160-3 of the Administrative Code in making their determinations regarding whether individuals with SMI and/or ~~MR~~DD need the level of services provided by a ~~NF~~nursing facility.
- (8) Any individual twenty-two years of age or older, who has previously been determined by DODD to be ruled out from PAS as defined in ~~paragraph (B)(31)~~ of rule ~~5101:3-3-14~~5160-3-15 of the Administrative Code ~~are is~~ not subject to further review.
- (9) An RR determination is not a level of care determination. Individuals seeking medicaid payment for the ~~NF~~nursing facility stay shall meet the level of care requirements in accordance with ~~division~~chapter ~~5101:35~~160-3 of the Administrative Code.

(E) RR/ID, RR/SMI, and RR/~~MR~~DD requests for additional information:

- (1) ~~ODMH~~OhioMHAS and/or DODD may request ~~any~~ additional information ~~required in order~~ necessary to make ~~an~~ a RR~~resident review~~ determination.
- (2) If ~~ODMH~~OhioMHAS and/or DODD requires additional information ~~in order~~ to make the RR~~resident review~~ determination ~~they~~the agency shall provide written notice to the ~~NF~~nursing facility, the individual, and the individual's representative, if applicable. This notice shall specify the missing forms, data elements and/or other documentation ~~that are~~ needed to make the required determinations.

- (3) In the event the individual and/or other entity does not provide the necessary information within fourteen calendar days, the agency that requested the information shall provide written notice to the individual, the individual's representative, if applicable, and the NF nursing facility that a continued stay ~~at~~in the NF nursing facility is prohibited due to failure to provide information necessary for the completion of the RR resident review process and ~~that~~ the individual may appeal the determination in accordance with the provisions of division 5101:6 of the Administrative Code.

(F) RR/ID, RR/SMI, and RR/~~MRDDDD~~ notification:

- (1) In accordance with all requirements specified in rule 5101:6-2-32 of the Administrative Code, ~~ODMH~~OhioMHAS and/or DODD shall provide written notification of all RR/SMI and/or RR-~~MRDDDD~~ determinations made.

(a) Such written notice shall be provided to:

- (i) The evaluated individual and his or her legal representative;
- (ii) The NF nursing facility in which the individual is a resident; ~~and~~
- (iii) The individual's attending physician;
- (iv) ~~In the case of an adverse determination and an approval which is issued for a specified period of time~~ ODJFSODM, and the individual's medicaid managed care plan as defined in rule ~~5101:3-3-14~~ 5160-26-01 of the Administrative Code and the CDJFS, ~~when~~as applicable, when an adverse determination or an approval for a specified period of time is issued .

(b) Such written notice shall include all of the following components:

- (i) The determination as to whether and when applicable, ~~for how long~~ the estimated length of time the individual requires the level of services provided by a NF nursing facility;
- (ii) The determination as to whether the individual requires specialized services for SMI and/or ~~MRDDDD~~;
- (iii) The placement and/or service options that are available to the



individual consistent with those determinations; and

- (iv) The individual's right to appeal the determination(s).
- (2) Upon receipt of the written notice of an adverse determination, the NF nursing facility shall provide the individual with notice of the intent to discharge. When an expiration date is specified in the written notice, the NF nursing facility shall provide the individual with notice of the intent to discharge at least thirty days prior to the expiration date. All individuals, regardless of payment source, who are subject to RR/SMI and/or RR/~~MRDDDD~~ and who do not meet the retention criteria set forth in paragraph (D)(1) of this rule must be discharged from the NF nursing facility and relocated to an appropriate setting in accordance with section 3721.16 of the Revised Code. The NF nursing facility shall maintain a written record of discharge planning activities which shall include the alternative settings and services explored and the steps taken to ensure that a safe and orderly discharge occurs.
- (3) The NF nursing facility shall retain the written notification of the RR/SMI and/or ~~RR-MRDDRR/DD~~ determinations received from ~~ODMH~~OhioMHAS and/or DODD in the individual's resident's record at the facility.

(G) Medicaid payment for services

- (1) Medicaid payment is not available for the provision of specialized services for SMI and/or ~~MRDDDD~~.
- (2) Medicaid payment is available for the provision of NF nursing facility services to medicaid-eligible individuals subject to RR/SMI and/or ~~RR-MRDD/DD~~ only when the individual has met the criteria for retention set forth in paragraph (D)(1) of this rule.
- (3) For medicaid eligible individuals, medicaid payment is available through the time period specified in the notice or during the period an appeal is in progress.
- (4) When a RR/ID is not initiated by the NF nursing facility within the timeframes specified in paragraph (C )(1) of this rule, but is performed at a later date, medicaid payment is not available for services furnished to the eligible individual from the date the RR/ID was due through the earlier of:
- (a) If the individual had indications of ~~MRDDDD~~ or SMI, the seventh calendar day following the receipt of the ~~JFS~~ ODM 03622 or RR/ID

submitted via the ODM approved electronic system form by ~~ODMH~~OhioMHAS or DODD; or

(b) If the individual had no indications of ~~MRDDDD~~ or SMI, the date the RR/ID determination was made;

(H) Adverse resident review determinations may be appealed in accordance with division 5101:6 of the Administrative Code.

(I) ~~ODJFS~~ODM has authority to ~~assure~~ensure compliance with the provisions of this rule. ~~NF's~~Nursing facilities, local administrators, hospitals and all state agencies and their designees shall comply, with accuracy and timeliness, to all requests for records and compliance plans issued by ~~ODJFS~~ODM or its designees.

Effective: 03/01/2015

Five Year Review (FYR) Dates: 11/19/2014 and 03/01/2020

CERTIFIED ELECTRONICALLY

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Certification

01/26/2015

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Date

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