

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-3-15.2

**Rule Type:** New

**Rule Title/Tagline:** Resident review requirements for individuals residing in nursing facilities.

**Agency Name:** Ohio Department of Medicaid

**Division:**

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

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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?**
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?**

This rule is being filed as new because more than fifty percent of the rule has been changed to align with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138 and to clarify current departmental procedures

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

Rule 5160-3-15.2 sets forth the resident review requirements in compliance with section 1919(e)(7) of the Social Security Act, as in effect on January 1, 2019, which

prohibits nursing facilities from retaining individuals with serious mental illness (SMI) as defined in rule 5122-21-03 of the Administrative Code and/or developmental disabilities (DD) as defined in rule 5123-14-01 of the Administrative Code unless a thorough evaluation indicates that such placement is appropriate and adequate services are provided. This rule replaces rule 5160-3-15.2, which is being proposed for rescission. Changes to this rule were made to align the rule with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138 and to clarify current departmental procedures. Changes to the rule include:

Language added to require resident reviews to be initiated and submitted via the electronic system designated by ODM" for efficiency, data reliability and alignment with the requirements found in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.

Revised language pertaining to PASRR compliance provisions for accuracy and consistency with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.

- 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. 121.71 to 121.76, 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 Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC 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 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.

This rule incorporates one or more dated references to the Social Security Act. This question is not applicable to those 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). pursuant to RC 121.76(A)(1).

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(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. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

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?**

The business community impacted by these rules include Medicaid certified nursing facilities and licensed hospitals. The manual submissions of the federally mandated Level I screening and resident review form currently causes an adverse impact to Medicaid certified nursing facilities and licensed hospitals. The proposed rule will eliminate this adverse impact by more than 50% by requiring that both Level I screenings and resident review submissions be done electronically.

Prior developed estimates made in conjunction with the business community projected that completing the Level I screen, and the resident review forms required to initiate the resident review manually takes one person 30 to 60 minutes. We estimate that the average cost for a social worker or hospital discharge planner completing a Level I screen is between \$21.00 - \$31.00/per screening and the cost of a registered nurse or a social worker completing the resident review forms to initiate the resident review manually is between \$31.00 - \$41.00/per review. These amounts are based on 2019 average hourly wage for a social worker of \$20.45/hour, the average hourly wage for a hospital discharge planner of \$20.05/hour and the average hourly wage for a registered nurse at \$29.47/hour. Electronic submission of screening and resident review forms will reduce the time currently spent on manual submission of screenings and resident review forms by more than 50%.

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**

### **III. Common Sense Initiative (CSI) Questions**

15. **Was this rule filed with the Common Sense Initiative Office? Yes**
16. **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? Yes**

Compliance with PASRR regulations is mandatory in accordance with 42 C.F.R. 483.100-483.138. Failure for a Medicaid certified nursing facility to comply with the PASRR screening requirements may result in the recoupment of funds for number of days PASRR requirements were not met for the resident and termination of the Medicaid provider agreement.

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

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