

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-3-15.2

Rule Type: Rescission

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

Contact: Tommi Potter **Phone:** 614-752-3877

Email: tommi.potter@medicaid.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/1/2019
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, 5162.03, 5165.03, 5119.40
6. **What are the reasons for proposing the rule?**

This rule is being rescinded due to a five year rule review.

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

Rule 5160-3-15.2 entitled " Resident review requirements for individuals residing in nursing facilities" sets forth resident review requirements in compliance with section 1919(e)(7) of the Social Security Act, as in effect on January 1, 2014, which prohibits

nursing facilities from retaining individuals with serious mental illness (SMI) as defined in rule 5160-3-15 of the Administrative Code or developmental disabilities (DD) as defined in rule 5160-3-15 of the Administrative Code unless a thorough evaluation indicates that such placement is appropriate and adequate services are provided. This rule was reviewed pursuant to a five-year rule review. As a result, this rule is being proposed for rescission, and is being replaced by new rule 5160-3-15.2.

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 following information is based on the information obtained from the 2014 filing of this rule.

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.

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? No**

The following information is based on the information obtained from the 2014 filing of this rule.

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.