CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Medicaid

Regulation/Package Title: Preadmission screening and Resident Review (PASRR) Program

Rule Number(s): 5160-3-15.1 (Rescind), 5160-3-15.1 (New), 5160-3-15.2 (Rescind), 5160-3-15.2 (New), 5160-3-15 (for reference only)

Date: July 24, 2019

Rule Type:

- X New
- ☐ Amended
- X 5-Year Review
- X Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

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 a 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.

5160-3-15 (Rescind) Preadmission screening and resident review (PASRR) definitions

This rule sets forth the definitions for terms contained in rules 51603-15.1, 5160-3-15.2, 5122-21-03 and 5123:2-14-01. 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.

5160-3-15 (New) Preadmission screening and resident review (PASRR) definitions

This rule sets forth the sets forth the definitions for terms contained in rules 5160-3-15.1, 5160-3-15.2, 5122-21-03 and 5123-14-01. This rule replaces rule 5160-3-15, which is being proposed for rescission. Changes to this rule are being made to align with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138. The proposed changes to this rule does not require a BIA but are included to clarify the updates being made in subsequent rules:

- The definition of "active treatment" is being removed because it is no longer relevant and is inconsistent with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.

- The definition of "attending physician" was added to clarify current departmental procedures.

- Language has been revised to the definition of “categorical determination” to align with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138 and to clarify current departmental procedures.
- The definition of “community” was added to clarify current departmental procedures.
- The definition of “emergency nursing facility stay” has been revised to align with the intent and definition found in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- In paragraph (B)(9), the term "hospital exemption” is being changed to "hospital discharge exemption” for accuracy. The definition was also revised for clarity and consistency with current departmental procedures.
- The definition of “ICF/IID” is being removed because it is no longer relevant and is inconsistent with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- The term “preadmission screening identification (PAS/ID)” was removed throughout the rule and replaced with the term “level I screening” to align with the term used in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- The term “Preadmission screening for developmental disabilities (PAS-DD) and Preadmission screening for serious mental illness (PAS-SMI)” were removed throughout the rule and replaced with the term “level II evaluation” to align with the term used in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- The definition of “Preadmission screening for developmental disabilities (PAS-DD) and Preadmission screening for serious mental illness (PAS-SMI)” were revised into one definition “Level II evaluation” to eliminate redundancy, for clarity, accuracy and consistency with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- The definition of “nursing facility level of service” was added for clarity purposes and in consistency with rules 5122-21-03 and 5123:2-14-01.
- The term “resident review identification (RR/ID), resident review for developmental disabilities (RR-DD) and resident review for serious mental illness (RR-SMI)” were changed throughout the rule and replaced with the term “resident review” to provide clarity, eliminate redundancy and to align with the term used in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- Language was removed from the definition of “significant change” for clarity, accuracy and consistency with Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- The definition of “Specialized Services” was revised to align with the intent and definition found in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.

5160-3-15.1 (Rescind) Preadmission screening requirements for individuals seeking admission to nursing facilities

This rule sets forth the preadmission screening (PAS) requirements in order to comply with section 1919(e)(7) of the Social Security Act, as in effect on January 1, 2014, which prohibits nursing facilities from admitting or enrolling 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 will be 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 5160-3-15.1.

5160-3-15.1 (New) Preadmission screening requirements for individuals seeking admission to nursing facilities

This rule sets forth the level I and level II preadmission screening requirements pursuant to section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019, to ensure that individuals seeking admission to a Medicaid-certified nursing facility who have serious mental illness (SMI) and/or a developmental disability (DD) as defined in rules 5122-21-03 and 5123-14-01 of the Administrative Code are identified and not admitted to a nursing facility unless a thorough evaluation indicates that such placement is appropriate and adequate services will be provided regardless of payor source. The adverse impacts of this rule are part of the preexisting content of the rule. The proposed changes to the rule are:

- Language added to require that preadmission screenings must be submitted electronically via the electronic system designated by ODM to promote efficiency, data reliability, reduction of the number of erroneous screenings currently being submitted manually and alignment with the requirements found in 42 C.F.R. 483.100 - 483.138.
- Revised the submission of a level I screening to a list of professionals to align with the intent of 42 C.F.R. 483.100 - 483.138 and to reduce the number of false positive results for individuals seeking admission to a Medicaid-certified nursing facility that do not have indications of a SMI and/or DD.
- Rule title changed from "Preadmission Screening Requirements for individuals seeking admission to nursing facilities" to "level I and level II preadmission screening requirements for individuals seeking admission to nursing facilities" to align with 42 C.F.R. 483.100 - 483.138.
- Added categorical determinations requirements to the rule for clarity, accuracy and consistency with 42 C.F.R. 483.100 - 483.138.
- Added language to nursing facility transfer requirements section to the rule for accuracy and to clarify current departmental procedures as well as consistency with 42 C.F.R. 483.100 - 483.138.
- Added Level I and level II notification and record retention sections to the rule to the rule for clarity, accuracy and consistency with 42 C.F.R. 483.100 - 483.138.

5160-3-15.2 (Rescind) Resident review requirements for individuals residing in nursing facilities

This rule 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. This rule is being proposed for rescission and is being replaced by new rule 5160-3-15.2.

5160-3-15.2 (New) Resident review requirements for individuals residing in nursing facilities

This rule 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. The adverse impacts of this rule are part of the preexisting content of the rule. The proposed changes to the rule are:

- Language added to require electronic submission of resident review that preadmission screenings must be submitted electronically via the electronic system designated by ODM to promote efficiency, data reliability, and in alignment with the requirements in 42 C.F.R. 483.100 - 483.138.
- Changed the requirements of resident review extension request submission directly to ODM for approval to having the NF submit the request directly to the level II entity for approval to ensure alignment with the responsibilities delegated to DODD and OhioMHAS found in Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.
- Added the list of professionals who may conduct a face to face assessment previously found in paragraph (B)(2) of rule 5160-3-15 currently being rescinded and moved the language under section (F) of rule 5160-3-15.2 currently being proposed for adoption.
- 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.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

   5164.02

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   Yes; the proposed rules implement the federal Preadmission Screening and Resident Review (PASRR) requirement governed by 42 C.F.R. 483, Subpart C.

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The proposed rules do not exceed any federal requirements.

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   The public purpose of the regulations described in these rules is to allow individuals to reside in the least restrictive setting possible while having their long-term services and support needs met. The agency is required to regulate this process pursuant to section 1919(e)(7) of the Social Security Act, as in effect on January 1, 2019, and Chapter 42 of the Code of Federal Regulations, Sections 483.100 through 483.138.

6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

   The success of these proposed rules will be measured through a finding of compliance in accordance with the standards described in the rules.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

   - Ohio Department of Developmental Disabilities
   - Ohio Department of Mental Health and Addiction Services
   - Ohio Department of Aging
   - Ohio Department of Health

   Ohio's three nursing facility providers associations, which are:

   - Ohio Healthcare Association (OHCA)
   - The Academy of Senior Health Sciences, Inc.
   - LeadingAge Ohio

   Ohio's nursing facility provider associations represent and advocate for small and large nursing facilities and nursing facilities with both individual and group ownership, publicly-traded and government-owned properties, and for profit and nonprofit facilities. In addition to representing and advocating for nursing facilities, the associations are informational and educational to Ohio's nursing facilities, their suppliers, consultants, and the public at large.

8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The proposed rules were distributed on June 12, 2019 to the stakeholders included in question 7 and those stakeholders provided comments and questions that were addressed by ODM on June 25, 2019. The comments and questions led to rule revisions.

9. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

   Scientific data was not applicable to the development of the proposed rules.

10. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

    No alternative regulations were considered. The Department of Medicaid considers the federal and state regulations that govern PASRR specifically 42 C.F.R. 483, Subpart C and the Ohio Administrative Code rules the most appropriate type of regulations for the provisions contained in the proposed rules.

11. **Did the Agency specifically consider a performance-based regulation? Please explain.** ***Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

    Performance-based regulations are not considered appropriate for the proposed rules.

12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

    The Ohio Department of Medicaid (ODM) collaborated with the Ohio Department of Mental and Addiction Services (OhioMHAS) and Ohio Department of Developmental Disabilities (DODD) as partner agencies also responsible for the implementation of PASRR to ensure that the agencies' respective rules and the processes set forth therein are well coordinated and are not duplicative.

13. **Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

    The Ohio Department of Medicaid (ODM) has coordinated with the Ohio Mental and Addiction Services (OhioMHAS) and Ohio Department of Developmental Disabilities (DODD) as partner agencies also responsible for the implementation of PASRR to implement new rules for a smooth and uniform transition throughout Ohio. ODM will provide training that will be posted on the ODM website and will be available to the public.

Adverse Impact to Business

14. **Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

a. **Identify the scope of the impacted business community;**
This rule impacts approximately 970 nursing facilities in Ohio that choose to participate in the Medicaid program.

b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
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 agreements. As such, 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.

c. **Quantify the expected adverse impact from the regulation.**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

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 federally mandated Level I screening and resident review form submission cause an adverse impact to NFs. As part of the five-year rule review process, these rules are proposed for adoption to allow for the changes specified under question 1 of this document and specifically, the requirement that both Level I screenings and resident review submissions be conducted electronically which we believe will be beneficial to the nursing facilities.

Prior developed estimates made in conjunction with the business community projected that completing the Level I screening 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 screening 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%. It will also enable the nursing facility to receive instant determinations for individuals that do not have indications of an SMI and/or DD and allow for instant 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 will enable nursing facilities to track the screening and resident reviews which is useful for follow ups. Overall, electronic submission of preadmission screening and resident reviews will benefit individuals seeking admission to a Medicaid certified nursing facility by eliminating unnecessary delays currently experienced by individuals seeking admission.

15. **Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

    The adverse impact associated with the proposed rules are justified because the rules implement a the federally mandatory program pursuant to 42 C.F.R. 483, Subpart C and is being proposed for adoption to comply with the five-year rule review.

Regulatory Flexibility

16. **Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

    No. The provisions in the proposed rules are the same for all Medicaid certified nursing facilities.

17. **How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

    ORC section 119.14 is not applicable to these regulations.

18. **What resources are available to assist small businesses with compliance of the regulation?**

Nursing facilities in need of assistance may contact the Bureau of Long-Term Services and Supports at (614) 752-2591, access trainings via the Ohio Department of Medicaid website and send questions via email to PASRR@medicaid.ohio.gov.

TO BE RESCINDED

5160-3-15 **Preadmission screening and resident review (PASRR) definitions.**

(A) The purpose of this rule is to set forth the definitions for terms contained in rules 5160-3-15.1, 5160-3-15.2, 5122-21-03 and 5123:2-14-01 of the Administrative Code.

(B) Definitions:

(1) 'Active treatment' means a continuous treatment program including aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services for individuals with developmental disabilities that are directed toward the following:

(a) The acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(b) The prevention, deceleration, regression or loss of current optimal functional status.

(2) 'Adverse determination' means a determination made in accordance with rules 5160-3-15.1, 5160-3-15.2, 5122-21-03 and 5123:2-14-01 of the Administrative Code, that an individual does not require the level of services provided by a nursing facility. A determination that an individual does not require nursing facility services shall meet both of the following conditions:

(a) A face-to-face assessment of the individual, and a review of the medical records accurately reflecting the individual's current condition, is performed by one of the following professionals within the scope of his/her practice.

(i) Medical doctor or doctor of osteopathic medicine;

(ii) Registered nurse (RN);

(iii) Master of science of nursing;

(iv) Clinical nurse specialist;

(v) Certified Nurse practitioner;

(vi) Licensed social worker, under supervision of a licensed independent social worker (LISW);

(vii) Licensed independent social worker;

(viii) Professional counselor, under supervision of a licensed professional clinical counselor (PCC);

(ix) Professional clinical counselor;

(x) Psychologist;

(xi) Qualified intellectual disability professional; or

(xii) Service and support administrator.

(b) Authorized personnel from the Ohio department of mental health and addiction services (OhioMHAS) and/or Ohio department of developmental disabilities (DODD), other than the personnel identified in paragraph (B)(2)(a) of this rule who have conducted the face-to-face assessment, have reviewed the assessment and made the final determination regarding the need for nursing facility services and specialized services.

(3) 'Categorical determination' means a preadmission screening developmental disabilities (PAS-DD) or preadmission screening serious mental illness (PAS-SMI) determination which may be made for an individual with a developmental disability (DD) and/or serious mental illness (SMI) without first completing a full PAS-DD and/or PAS-SMI evaluation when the individual's circumstances fall within one of the following two categories:

(a) The individual requires an 'emergency nursing facility stay', as defined in paragraph (B)(7) of this rule;

(b) The individual is seeking admission to a nursing facility for a 'respite nursing facility stay' as defined in paragraph (B)(26) of this rule.

(4) 'Current diagnoses' means a written medical determination by the individual's attending physician, whose scope of practice includes diagnosis, listing those diagnosed conditions which currently impact the individual's health and functional abilities. To be considered current, the written documentation of the diagnoses must reflect the diagnoses was assigned by the individuals attending physician within one hundred eighty calendar days of submission for

the preadmission screening review certifying that the listed diagnoses are an accurate reflection of the individual's current condition;

(a) 'Primary diagnosis' means the diagnosis identified as the primary diagnosis by the physician, whose scope of practice includes diagnosis. When two or more diagnoses have such indications, none of them can be considered to be the primary diagnosis for the purposes of this rule.

(b) 'Secondary diagnosis' means any diagnoses other than a primary diagnosis as defined in paragraph (B)(4)(a) of this rule.

(5) 'Dementia.' An individual is considered to have dementia when he or she meets either of the following criteria:

(a) The individual has a primary diagnosis of a dementia, including alzheimer's disease or a related disorder, as described in the 'diagnostic and statistical manual of mental disorders,' fifth edition (DSM-5) (5/2013); or

(b) The individual has a secondary diagnosis of a dementia, including alzheimer's disease or a related disorder, as described in the DSM-5 (5/2013), and a primary diagnosis which is not a major mental disorder specified in paragraph (B)(31)(a) of this rule.

(6) 'Developmental disability.' An individual is considered to have a developmental disability when he or she has:

(a) A condition as described in the American association on intellectual and developmental disabilities manual "Intellectual Disability: Definition, Classification, and Systems of Supports (11th Edition)" (October 15, 2009); or

(b) A related condition which means a severe, chronic disability meeting all of the following conditions:

(i) It is attributable to:

(a) Cerebral palsy, epilepsy; or

(b) Any other condition other than mental illness, found to be closely related to an intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability, and requires treatment or services;

(ii) It is manifested before the person reaches the age of twenty-two; and

(iii) It is likely to continue indefinitely; and

(iv) It results in substantial functional limitations in three or more of the following areas of major life activity:

(a) Self-care;

(b) Understanding and use of language;

(c) Learning;

(d) Mobility;

(e) Self-direction;

(f) Capacity for independent living; or

(g) Economic self-sufficiency (for persons sixteen years and older);

(v) Individuals who have a developmental disability as defined in section 5123.01 of the Revised Code are considered to have a related condition.

(7) 'Emergency nursing facility stay' means the individual is being admitted to a nursing facility pending further assessment for a period not to exceed seven days when the placement in the nursing facility is necessary to avoid serious risk to the individual of immediate harm or death.

(8) 'Guardian' has the same meaning as in section 2111.01 of the Revised Code.

(9) 'Hospital exemption' means an exemption from preadmission screening for a new admission, as defined in paragraphs (B)(16)(a) to (B)(16)(d) of this rule, to a nursing facility. The discharging hospital shall request a hospital exemption via the ODM 07000 (rev. 7/2014), "Hospital Exemption from Preadmission Screening Notification" or the electronic system approved by the Ohio department of medicaid (ODM). Effective April 1, 2015, the discharging hospital shall request a hospital exemption via only the electronic system approved by ODM. Exceptions to electronic submission must be approved by ODM or its designee.

(10) 'ICF/IID' means intermediate care facility for individuals with intellectual disabilities. An ICD/IID is a long-term care facility certified to provide ICF/

IID services, as defined in 42 C.F.R. 440.150, as in effect on February 1, 2014 to individuals with a developmental disability or related conditions requiring active treatment.

(11) 'Indications of developmental disabilities'. An individual shall be considered to have indications of developmental disabilities when the individual meets the criteria specified in paragraph (B)(6) of this rule or the individual receives services from a county board of developmental disabilities (CBDD).

(12) 'Indications of serious mental illness (SMI).' An individual shall be considered to have indications of serious mental illness when the individual meets at least two of the three criteria specified in paragraph (B)(31) of this rule or, due to a mental impairment, receives supplemental security income authorized under Title XVI of the Social Security Act, as amended, as in effect on February 1, 2014 or social security disability insurance authorized under Title II of the Social Security Act, as in effect on February 1, 2014.

(13) 'Individual' for the purposes of this rule, means a person regardless of payment source, who is seeking admission, readmission or transfer to a nursing facility, or who resides in a nursing facility or facility in the process of becoming certified as a nursing facility.

(14) 'Long-term resident' means an individual who has continuously resided in a nursing facility or a consecutive series of nursing facilities and/or medicare skilled nursing facilities for at least thirty months prior to the first resident review determination in which the individual was found not to require the level of services provided by a nursing facility, but to require specialized services as defined in paragraphs (B)(33) and (B)(34) of this rule. The thirty months may include temporary absences for hospitalization, therapeutic leave, or visits with family or friends as defined in rule 5160-3-16.4 of the Administrative Code.

(15) 'Medicaid managed care plan' means a managed care plan (MCP) as defined in rule 5160-26-01 of the Administrative Code.

(16) 'New admission' means:

(a) The admission, to an Ohio medicaid certified nursing facility, of an individual who was not a resident of any Ohio medicaid certified nursing facility immediately preceding the current nursing facility admission nor immediately preceding a hospital stay from which the individual is to be admitted directly to a nursing facility (this includes individuals with no previous nursing facility admissions; individuals admitted from other states, regardless of type of prior residence; and individuals with prior

Ohio nursing facility admissions who had been discharged from an Ohio nursing facility and did not have either an intervening hospital or other nursing facility stay immediately preceding the current nursing facility admission); and/or

(b) The admission, with or without an intervening hospital stay, to an Ohio medicaid certified nursing facility, of an individual discharged, returning to the same nursing facility or transferred from an Ohio medicaid certified nursing facility subsequent to an adverse preadmission screening or resident review determination or following an overruled appeal of an adverse preadmission screening or resident review determination immediately preceding the current nursing facility admission; and/or

(c) For PASRR purposes only and effective on the date the facility submits its application packet for medicaid certification to ODM, individuals seeking admission to, or are currently residing in, a facility that is in the process of obtaining its initial medicaid certification by Ohio department of health (ODH) and that facility and its residents were not subject to PASRR requirements preceding the submission of this application for medicaid certification. This does not include facilities that have already received medicaid nursing facility certification and are undergoing a change of operator; and/or

(d) With the exception of those circumstances specified in paragraphs (B)(16)(a) to (B)(16)(c) of this rule, nursing facility transfers and readmissions as defined in paragraphs (B)(18) and (B)(24) of this rule are not considered to be new admissions for the purposes of this rule.

(17) 'Nursing facility' has the same meaning as in section 5111.20 of the Revised Code. A long term care facility that has submitted an application packet for medicaid certification to ODM is considered to be in the process of obtaining its initial medicaid certification by the ODH and shall be treated as a nursing facility for the purposes of this rule.

(18) 'Nursing facility transfer.' A nursing facility transfer occurs when an individual's place of residence is changed from any Ohio medicaid certified nursing facility to another Ohio medicaid certified nursing facility, with or without an intervening hospital stay.

(19) 'Preadmission screening identification (PAS/ID).' 'PAS/ID', also known as a level one screen, means the process by which ODM, or its designee, screens individuals who are seeking new admissions to identify those who have indications of developmental disabilities or serious mental illness (SMI) as

defined in paragraphs (B)(11) and (B)(12) of this rule; and who, therefore, must be further evaluated by OhioMHAS and/or DODD. The PAS/ID is completed via the ODM 03622 "Preadmission Screening/Resident Review (PAS/RR) Identification Screen" (rev. 7/2014) or submitted via the electronic system approved by ODM.

(20) 'Physician' means a doctor of medicine or osteopathy who is licensed to practice medicine.

(21) 'Preadmission screening for developmental disabilities (PAS-DD), also known as a level two screen, means the process by which DODD determines:

(a) Whether, due to the individual's physical and mental condition, an individual who has a developmental disability requires the level of services provided by a nursing facility or another type of setting; and

(b) When the level of services provided by a nursing facility is needed, whether the individual requires specialized services for a developmental disability.

(22) 'Preadmission screening for serious mental illness (PAS-SMI), also known as a level two screen, means the process by which OhioMHAS determines:

(a) Whether, due to the individual's physical and mental condition, an individual who has SMI requires the level of services provided by a nursing facility or another type of setting; and

(b) Whether the individual requires specialized services for serious mental illness.

(23) Preadmission screening means the pre-admission portion of the PASRR requirements mandated by section 1919(e)(7) of the Social Security Act, as in effect on February 1, 2014, which must be implemented in accordance with rules 5160-3-15.1, 5122-21-03 and 5123:2-14-01 of the Administrative Code.

(24) 'Readmission' means the individual is readmitted to the same nursing facility, following a stay in the hospital to which he or she was sent for the purpose of receiving care, except as specified in paragraphs (B)(16)(a) to (B)(16)(d) of this rule.

(25) 'Resident review ' means the resident review portion of the PASRR requirements mandated by section 1919(e)(7) of the Social Security Act, as in effect on February 1, 2014, which must be implemented in accordance with rules 5160-3-15.2, 5122-21-03 and 5123:2-14-01 of the Administrative Code.

(26) 'Respite nursing facility stay' means the admission of an individual to a nursing facility for a maximum of fourteen days in order to provide respite to in-home caregivers to whom the individual is expected to return following the brief respite stay.

(27) 'Resident review identification (RR/ID)' is the process set forth in rules 5160-3-15.2, 5122-21-03, and 5123:2-14-01 of the Administrative Code by which individuals who are subject to resident review shall be identified.

(28) 'Resident review for developmental disabilities (RR-DD)' means the process, set forth in rule 5123:2-14-01 of the Administrative Code, by which the DODD determines whether, due to the individual's physical and mental condition, an individual who is subject to resident review, and who has a developmental disability requires the level of services provided by a nursing facility or another type of setting; and, whether the individual requires specialized services for a developmental disability.

(29) 'Resident review for serious mental illness (RR-SMI)' means the process, set forth in rule 5122-21-03 of the Administrative Code, by which the OhioMHAS determines whether, due to the individual's physical and mental condition, an individual who is subject to resident review, and who has serious mental illness (SMI) requires the level of services provided by a nursing facility or another type of setting; or whether that individual requires specialized services for serious mental illness.

(30) 'Ruled out' means that the individual has been determined not to be subject to further review by DODD or OhioMHAS. An individual may be ruled out for further PASRR review at any point in the PASRR process. When DODD or OhioMHAS finds at any time during the evaluation that the individual being evaluated:

(a) Does not have a developmental disability or SMI; or

(b) Has a primary diagnosis of dementia (including alzheimer's disease or a related disorder); or

(c) Has a non-primary diagnosis of dementia without a primary diagnosis that is serious mental illness, and does not have a diagnosis of a developmental disability or a related condition.

(31) 'Serious mental illness (SMI)' includes the following criteria regarding diagnosis, level of impairment and recent treatment.

(a) Diagnosis. The individual does not have dementia (as defined in paragraph (B)(5) of this rule), but has a major mental disorder diagnosable under the (DSM-5) (5/2013); and this mental disorder is one of the following: a schizophrenic, mood, delusional (paranoid), panic or other severe anxiety disorder, somatoform disorder, personality disorder, other psychotic disorder, or another mental disorder other than developmental disability that may lead to a chronic disability diagnosable under the DSM-5 (5/2013).

(b) Level of impairment. Within the past six months, due to the mental disorder, the individual has experienced functional limitations on a continuing or intermittent basis in major life activities that would be appropriate for the individual's developmental stage.

(c) Recent treatment. The treatment history indicates that the individual has experienced at least one of the following:

(i) Psychiatric treatment more intensive than counseling and/or psychotherapy performed on an outpatient basis more than once within the past two years; or

(ii) Within the last two years, due to the mental disorder, experienced an episode of significant disruption to the usual living arrangement, for which supportive services were required, or which resulted in intervention by housing or law enforcement officials.

(32) 'Significant change of condition' means any major decline or improvement in the individual's physical or mental condition, as described in 42 C.F.R. 483.20, as in effect on February 1, 2014, or when at least one of the following criteria is met:

(a) There is a change in the individual's current diagnosis(es), mental health treatment, functional capacity, or behavior such that, as a result of the change, the individual who did not previously have indications of SMI, or who did not previously have indications of a developmental disability, now has such indications (this includes any individual who may have had indications of one or the other but now has indications of both SMI and DD), or who was previously determined by OhioMHAS not to have SMI but who now meets all three of the defining criteria for SMI (set forth in paragraphs (B)(2)(a)(i) to (B)(2)(a)(iii) of rule 5160-3-15.1 of the Administrative Code); or

(b) The change is such that it may impact the mental health treatment or placement options of an individual previously identified as having SMI and/or may result in a change in the specialized services needs of an individual previously identified as having a developmental disability.

(33) 'Specialized services for serious mental illness' means those services which are distinct from those available in nursing facilities and results in the continuous and aggressive implementation of an individualized plan of care approved by the medical director of OhioMHAS or designee that:

(a) Is developed and supervised by an interdisciplinary team which includes a physician, trained mental health professionals and, as appropriate, other professionals;

(b) Prescribes specific therapies and treatment activities for an individual experiencing an acute episode of SMI which necessitates supervision by trained mental health personnel in an inpatient setting licensed and/or operated by OhioMHAS; and

(c) Is time limited and directed toward diagnosing and reducing the individual's behavioral symptoms that necessitated intensive and aggressive intervention, improving the individual's level of independent functioning, and achieving a functioning level that permitting reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time.

(34) 'Specialized services for developmental disabilities' means the services specified by the PAS-DD or RR-DD determination and provided or arranged for by the CBDD resulting in continuous active treatment to address needs in each of the life areas in which functional limitations are identified by the CBDD. Specialized services shall be made available at the intensity and frequency necessary to meet the needs of the individual.

Effective:

Five Year Review (FYR) Dates:

_____

Certification

_____

Date

Promulgated Under:	119.03
Statutory Authority:	5164.02
Rule Amplifies:	5164.02, 5119.40
Prior Effective Dates:	12/01/2009, 11/16/2014

5160-3-15 **Preadmission screening and resident review (PASRR) definitions.**

(A) The purpose of this rule is to set forth the definitions for terms contained in rules 5160-3-15.1, 5160-3-15.2, 5122-21-03 and 5123-14-01 of the Administrative Code.

(B) Definitions:

(1) 'Adverse determination' means a determination made in accordance with rules 5160-3-15.1, 5160-3-15.2, 5122-21-03 and 5123-14-01 of the Administrative Code, that an individual does not require the level of services provided by a nursing facility or that the individual does or does not require specialized services.

(2) 'Attending Physician' means the physician to whom a person, or the family of a person, has assigned primary responsibility for the treatment or care of the person or, if the person or the person's family has not assigned that responsibility, the physician who has accepted that responsibility.

(3) 'Categorical determination' means a preadmission level II determination which may be made for an individual without a face to face assessment for an individual diagnosed with a serious mental illness (SMI) and/or developmental disability (DD) as defined in paragraphs (B)(6) and (B)(28) of this rule when the individual's circumstances fall within one of the following two categories:

(a) The individual requires an 'emergency nursing facility stay', as defined in paragraph (B)(7) of this rule;

(b) The individual is seeking admission to a nursing facility for a 'respite nursing facility stay' as defined in paragraph (B)(26) of this rule.

(4) 'Community' for PASRR purposes means a new admission from a setting other than a nursing facility, Ohio hospital or a unit of a hospital that is not operated by or licensed by the Ohio department of mental health and addiction services (OhioMHAS).

(5) 'Current diagnoses' means a written medical determination by the individual's attending physician, whose scope of practice includes diagnosis, listing those diagnosed conditions which currently impact the individual's health and functional abilities. To be considered current, the written documentation of the diagnoses must reflect the diagnoses assigned by the individual's attending physician within one hundred eighty calendar days of submission for the preadmission screening review certifying that the listed diagnoses are an accurate reflection of the individual's current condition

(6) 'Developmental disability (DD)' An individual is considered to have a DD when he or she meets the conditions described in 5123-14-01 of the Administrative

Code.

(7) 'Emergency nursing facility stay' refers to the temporary admission of an individual to a nursing facility pending further assessment in emergency situations requiring protective services as defined in rule 5101:2-20-01 of the Administrative Code, with placement in a nursing facility not to exceed seven days.

(8) 'Guardian' has the same meaning as in section 2111.01 of the Revised Code.

(9) 'Hospital discharge exemption', also known as hospital exemption means an exemption from level II preadmission screening as defined in paragraph (B)(15) of this rule, when an individual meets the hospital discharge exemption criteria in rule 5160-3-15.1 of the Administrative Code.

(10) 'Indications of developmental disabilities (DD)'. An individual shall be considered to have indications of developmental disabilities when the individual meets the criteria specified in 5123-14-01 of the Administrative Code or the individual receives services from a county board of DD.

(11) 'Indications of serious mental illness (SMI).' An individual shall be considered to have indications of an SMI when the individual meets the criteria specified in 5122-21-03 of the Administrative Code.

(12) 'Individual', for the purposes of this rule, means a person, regardless of payment source, who is seeking admission, readmission or transfer to a medicaid certified nursing facility, or who resides in a medicaid certified nursing facility or facility in the process of becoming medicaid certified as a nursing facility.

(13) 'Level I' or "level I screening" refers to the initial screening that must be given to all individuals seeking new admission as defined in paragraph (B)(17) of this rule to a medicaid-certified nursing facility, regardless of payor source, for the purpose of identifying individuals who may have or are suspected to have indications of a DD as defined in paragraph (B)(10) of this rule and/or a SMI as defined in paragraph (B)(11) of this rule.

(14) 'Level II entities' refers to the state level II authorities which is the OhioMHAS and the Ohio department of developmental disabilities (DODD).

(15) 'Level II' or "level II evaluation" refers to the in-depth evaluation of an individual that has been identified as having indications or suspected of having indications of a DD and/or a SMI as defined in paragraphs (B)(10) and (B)(11) of this rule by the level I screening outcome. The level II entity must confirm or disconfirm the existence of a DD and/or a SMI and make a written determination of the following:

(a) The individual's need or continued need for nursing facility services as defined in paragraph (B)(19) of this rule; and

(b) If the nursing facility is or continues to be the most appropriate setting to meet the individual's long-term care needs; and

(c) Identification and recommendation for specialized services as defined in paragraphs (B)(30) and/or (B)(31) of this rule, if any, that would be needed for the individual during the individual's nursing facility stay

(16) 'Long-term resident' means an individual who has continuously resided in a nursing facility or a consecutive series of nursing facilities and/or medicare skilled nursing facilities for at least thirty months prior to the first resident review determination in which the individual was found not to require the level of services provided by a nursing facility, but to require specialized services as defined in paragraphs (B)(30) and (B)(31) of this rule. The thirty months may include temporary absences for hospitalization, therapeutic leave, or visits with family or friends as defined in rule 5160-3-16.4 of the Administrative Code.

(17) 'New admission' means the admission to an Ohio medicaid certified nursing facility of an individual:

(a) Who was not a resident of any nursing facility immediately preceding:

(i) The current nursing facility admission; or

(ii) A hospital stay for which the individual is to be admitted directly to a nursing facility;

(b) Seeking admission or admitted to a nursing facility from another state, regardless of prior residence; or

(c) Is transferred or readmitted from a nursing facility following an:

(i) Adverse level II or a resident review determination; or

(ii) Overruled appeal of an adverse level II determination.

(d) For PASRR purposes only and effective on the date the facility submits its application packet for medicaid certification to the Ohio department of medicaid, individuals seeking admission to, or who are currently residing in, a facility that is in the process of obtaining its initial medicaid certification by Ohio department of health, and

(e) With the exception of those circumstances specified in paragraphs

(B)(17)(a) to (B)(17)(c) of this rule, nursing facility transfers and readmissions as defined in paragraphs (B)(20) and (B)(24) of this rule are not considered to be new admissions for the purposes of this rule.

(18) 'Nursing facility' has the same meaning as in section 5111.20 of the Revised Code. A long term care facility that has submitted an application packet for medicaid certification to the Ohio department of medicaid is considered to be in the process of obtaining its initial medicaid certification by the Ohio department of health and shall be treated as a nursing facility for the purposes of this rule.

(19) 'Nursing facility level of service' for the purposes of PASRR means a determination made by the DODD and/or OhioMHAS in accordance with rules 5123-14-01 and 5122-21-03 of the Administrative Code as required by section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019 that the individual's need for treatment does not exceed the level of services which can be delivered by the nursing facility to which the individual is seeking admission or is currently admitted to either through nursing facility services alone or, where necessary, through nursing facility services supplemented by specialized services provided by or arranged for by the state.

(20) 'Nursing facility transfer.' A nursing facility transfer occurs when an individual is transferred from any Ohio medicaid certified nursing facility to another Ohio medicaid certified nursing facility, with or without an intervening hospital stay.

(21) 'Preadmission screening' refers to the level I screening as defined in paragraph (B)(13) of this rule and when applicable the completion of the level II evaluation as defined in paragraph (B)(15) of this rule that results in a PASRR determination from the DODD and/or OhioMHAS administered prior to the individuals admission to the nursing facility.

(22) 'PASRR' means the preadmission screening and resident review of individuals for the purposes of identifying individuals with serious mental illness as defined in rule 5122-21-03 of the Administrative Code and/or a developmental disability as defined in rule 5123-14-01 of the Administrative Code and required by the "Social Security Act," 42 U.S.C 1396r(e)(7).

(23) 'Physician' means a doctor of medicine or osteopathy who is licensed to practice medicine.

(24) 'Readmission' means the individual is readmitted to the same nursing facility from a hospital to which he or she was sent for the purpose of receiving care.

(25) 'Resident review ' is a post admission level II evaluation as defined in paragraph (B)(15) of this rule that results in a determination for nursing facility residents which must be implemented upon a significant change in

condition as defined in paragraph (B)(29) of this rule and in accordance with section 1919(e)(7) of the Social Security Act, as in effect on January 1, 2019, which must be implemented in accordance with rules 5160-3-15.2, 5122-21-03 and 5123-14-01 of the Administrative Code.

(26) 'Respite nursing facility stay' means the admission of an individual to a nursing facility for a maximum of fourteen days in order to provide respite to in-home caregivers to whom the individual is expected to return following the respite stay.

(27) 'Ruled out' means a determination made by the DODD and/or the OhioMHAS that the individual is not subject to further review. An individual may be ruled out at any time during the PASRR assessment when it is determined that the individual:

(a) Does not have a DD and/or SMI; or

(b) Has a primary diagnosis of dementia (including alzheimer's disease or a related disorder); or

(c) Has a non-primary diagnosis of dementia without a primary diagnosis that is a SMI, and does not have a diagnosis of a DD or a related condition.

(28) 'Serious mental illness' means an individual meets the conditions described in rule 5122-21-03 of the Administrative Code.

(29) 'Significant change of condition' means any major decline or improvement in the individual's physical or mental condition, as described in 42 C.F.R. 483.20, as in effect on January 1, 2019, or when at least one of the following criteria is met:

(a) There is a change in the individual's current diagnosis(es), mental health treatment, functional capacity, or behavior such that, as a result of the change, the individual who did not previously have indications of a SMI, or who did not previously have indications of a DD, now has such indications; or

(b) The change is such that it may impact the mental health treatment or placement options of an individual previously identified as having SMI and/or may result in a change in the specialized services needs of an individual previously identified as having a DD.

(30) 'Specialized services for serious mental illness' means those services specified by the level II or the resident review determination for an individual with a SMI which are arranged by OhioMHAS in accordance with 5122-21-03 of the Administrative Code and may be provided under the behavioral health services as described in rule 5160-8-05 and 5160-27-02 of the Ohio

Administrative Code, which when combined with services by the nursing facility, results in the continuous and aggressive implementation of an individualized plan of care in accordance with 42 CFR 483.120, as in effect January 1, 2019.

(31) 'Specialized services for developmental disabilities' means the services or supports specified by the level II or the resident review determination for an individual with a DD which is provided or arranged for by the county board of DD in accordance with rule 5123-14-01 of the Administrative Code.

TO BE RESCINDED

5160-3-15.1 **Preadmission screening requirements for individuals seeking admission to nursing facilities.**

(A) The purpose of this rule is to set forth the preadmission screening (PAS) requirements in order to comply with section 1919(e)(7) of the Social Security Act, as in effect on January 1, 2014, which prohibits nursing facilities from admitting or enrolling individuals with serious mental illness (SMI), as defined in rule 5160-3-15 of the Administrative Code, or mental retardation and/or other developmental disabilities (MRDD), hereafter referred to as developmental disabilities (DD), as defined in rule 5160-3-15 of the Administrative Code, unless a thorough evaluation indicates that such placement is appropriate and adequate services will be provided. A preadmission screening identification (PAS/ID), as defined in rule 5160-3-15 of the Administrative Code is required:

(1) Prior to any new admission, as defined in rule 5160-3-15 of the Administrative Code, to a nursing facility and prior to any categorical determination, as defined in rule 5160-3-15 of the Administrative Code, unless the nursing facility admission meets the criteria for a hospital exemption as described in paragraph (G) of this rule.

(2) When an individual is directly admitted to a nursing facility from a hospital that is any of the following:

(a) A hospital that the Ohio department of mental health and addiction services (OhioMHAS) maintains, operates, manages, and governs under section 5119.14 of the Revised Code for the care and treatment of mentally ill persons;

(b) A free-standing hospital, or unit of a hospital, licensed by OhioMHAS under section 5119.33 of the Revised Code; or

(c) An out-of-state psychiatric hospital or psychiatric unit within an out-of-state hospital.

(B) Preadmission screening identification (PAS/ID) requirements:

(1) The PAS/ID submitter shall complete and submit to the Ohio department of medicaid (ODM) designee, the PASSPORT administrative agency, the ODM 03622 "Preadmission Screening/Resident Review (PAS/RR) Identification Screen" (rev. 7/2014) or submit the PAS/ID via the electronic system approved

by ODM. The submitter shall include any necessary supporting documentation with the ODM 03622 or within the electronic system in order to validate the answers on the ODM 03622.

(a) For an individual seeking medicaid payment, the ODM approved level of care assessment shall also be completed and submitted to ODM or its designee in accordance with rule 5160-3-14 of the Administrative Code, unless the individual is enrolled in a medicaid managed care plan (MCP) as defined in rule 5160-26-01 of the Administrative Code.

(b) For a non-Ohio resident who will be relocating to Ohio who has SMI and/or DD or whose ODM 03622 indicates SMI and/or DD, the submitter shall submit the ODM approved level of care assessment with the ODM 03622, along with the other state's level two evaluation(s) of the individual and any additional documentation to address the required evaluation elements specified in rules 5122-21-03 and 5123:2-14-01 of the Administrative Code. Submission of the required forms and information does not constitute completion of the PAS/ID process.

(c) For a new admission as defined in rule 5160-3-15 of the Administrative Code, when the individual already resides in the facility at the time the PAS/ID is initiated, the submitter must notify ODM or its designee of the medicaid status of the facility at the time of the PAS/ID submission.

(d) A PAS/ID may be initiated by the individual seeking the new admission, or by another entity on behalf of the individual, or by any state agency or its designee responsible for preadmission screening. The nursing facility is ultimately responsible for ensuring that the PAS/ID is completed and the determination is on file.

(2) ODM or its designee shall review the ODM 03622 or the electronic system to determine whether the individual has a developmental disability and/or indications of SMI.

(a) An individual shall be determined to have indications of SMI when the individual:

(i) Meets at least two of the three criteria specified in rule 5160-3-15 of the Administrative Code; or

(ii) Due to a mental impairment, receives supplemental security income (SSI) authorized under Title XVI of the Social Security Act, as amended; or

(iii) Due to a mental impairment, receives social security disability insurance (SSDI) authorized under Title II of the Social Security Act, as amended.

(b) An individual shall be determined to have indications of DD when the individual's condition meets the defining criteria set forth in rule 5160-3-15 of the Administrative Code.

(3) PAS/ID results shall determine whether an individual is subject to further review.

(a) Individuals determined to have no indications of SMI and/or DD are not subject to further preadmission screening review. Such individuals are considered to have met the preadmission screening requirements effective on the date an accurate and complete record was submitted to ODM or its designee, even when the records were received at a later date.

(b) Individuals determined to have indications of SMI shall be subject to further review by OhioMHAS, in accordance with rule 5122-21-03 of the Administrative Code. Such individuals shall not be considered to have completed the preadmission screening process until OhioMHAS has issued the PAS/SMI determination.

(c) Individuals determined to have indications of DD shall be subject to further review by the Ohio department of developmental disabilities (DODD) in accordance with rule 5123:2-14-01 of the Administrative Code. Such individuals shall not be considered to have completed the preadmission screening process until DODD has issued the PAS/DD determination.

(d) Individuals determined to have indications of both SMI and DD shall be subject to further review by both OhioMHAS and DODD in accordance with rules 5122-21-03 and 5123:2-14-01 of the Administrative Code. Such individuals shall not be considered to have completed the preadmission screening process until OhioMHAS has issued the PAS/SMI determination and DODD has issued the PAS/DD determination.

(e) Any individual twenty-two years of age or older, who has previously been determined by DODD to be ruled out, as defined in rule 5160-3-15 of the Administrative Code, from preadmission screening is not subject to further review.

(4) When an individual has been determined to have indications of SMI and/or DD, ODM or its designee shall forward the ODM 03622 and all supporting documentation to:

(a) OhioMHAS and/or DODD for categorical and out of state requests. In addition, for those individuals relocating from outside of Ohio, ODM or its designee shall also send the other state's evaluation documentation to OhioMHAS and/or DODD.

(b) The county board of DD (CBDD) and/or the OhioMHAS local evaluator, for all other requests.

(5) ODM or its designee, OhioMHAS and/or DODD are the only entities that have the authority to render preadmission screening determinations. The individual must not move into an Ohio nursing facility until the preadmission screening determination has been made.

(6) The receiving nursing facilities are responsible for ensuring that all individuals subject to PAS/ID receive a review and determination by ODM or its designee and, if applicable, a PAS/SMI review and determination by OhioMHAS and/or a PAS/DD review and determination by DODD prior to entering the nursing facility.

(7) 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. This is true regardless of the payment source for the individual's nursing facility stay.

(C) PAS/SMI and PAS/DD determination requirements:

(1) There shall be no new admission of any individual with SMI or DD, regardless of payment source, unless the individual has either been determined, in accordance with rules 5122-21-03 and/or 5123:2-14-01 of the Administrative Code, to need the level of services provided by a nursing facility, or has qualified for admission under the hospital exemption provision set forth in paragraph (G) of this rule.

(2) PAS/SMI and/or PAS/DD must be completed prior to any new admission of an individual determined by OhioMHAS and/or DODD to have SMI and/or DD.

(a) For an individual identified as a new admission, as defined in rule 5160-3-15 of the Administrative Code, and regardless of payment source, the PAS/SMI and/or the PAS/DD determination requirements must be met before the individual is admitted to any nursing facility or facility in the process of obtaining its initial medicaid certification and nursing facility provider agreement. Individuals determined not to need nursing facility services

shall not be admitted or enrolled and medicaid payment will not be available for nursing facility services.

(b) For an individual identified as a new admission, as defined in rule 5160-3-15 of the Administrative Code who are current residents of the facility, the PAS/SMI and/or the PAS/DD requirements must be met prior to the effective date of the nursing facility provider agreement between ODM and the newly certified nursing facility and/or prior to the availability of medicaid payment for the medicaid eligible individual.

(3) OhioMHAS and DODD are prohibited from utilizing criteria relating to the need for nursing facility care or specialized services that are inconsistent with C.F.R. 483.108 and the ODM approved state plan for medicaid. The approved state plan for medicaid includes level of care criteria, contained in Chapter 5160-3 of the Administrative Code. Therefore, OhioMHAS and DODD must use criteria consistent with Chapter 5160-3 of the Administrative Code in making their determinations regarding whether individuals with SMI and/or DD need the level of services provided by a nursing facility.

(D) PAS/ID, PAS/SMI, and PAS/DD requests for additional information:

(1) ODM or its designee, OhioMHAS and/or DODD may request any additional information required in order to make an preadmission screening determination.

(2) When ODM or its designee, OhioMHAS and/or DODD require additional information in order to make the preadmission screening determination they shall provide written notice to the nursing facility, the individual, the hospital, the referring entity, and the individual's representative, if applicable. This notice shall specify the missing forms, data elements and other documentation 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, ODM or its designee, OhioMHAS and/or DODD shall provide written notice to the individual, the individual's guardian or authorized representative, if applicable, and the nursing facility that the admission is prohibited due to failure to provide information necessary for the completion of the preadmission screening process and that the individual may appeal the determination in accordance with the provisions of division 5101:6 of the Administrative Code. The individual, regardless of payment source, must not be admitted to the nursing facility.

(4) When the individual was seeking medicaid coverage of the proposed nursing facility stay, the county department of job and family services (CDJFS) must also be notified that the individual is not eligible for the admission due to failure to cooperate in the establishment of eligibility.

(5) When the individual or other entity submits the requested information within the timeframes specified in the notice, ODM or its designee, or DODD and/or OhioMHAS shall continue with the preadmission screening process.

(E) PAS/ID, PAS/SMI, and PAS/DD notification:

(1) In accordance with all requirements specified in rule 5101:6-2-32 of the Administrative Code, ODM, or its designee, shall report the outcome of the PAS/ID to the individual, their guardian, or authorized representative (if applicable) and to the entity which initiated the review, and the applicable state department(s) who receive the ODM 03622 and ODM approved level of care assessment (if applicable).

(2) The admitting nursing facility shall maintain the results of the PAS/ID in the individual's resident record at the facility.

(3) In accordance with all requirements specified in rule 5101:6-2-32 of the Administrative Code, DODD and/or OhioMHAS must provide written notice of the PAS-DD and/or PAS-SMI determination to the individual, their legal guardian of person or authorized representative (if applicable), the individual's physician and the facility. When the individual has applied for medicaid payment of the nursing facility stay, ODM and if applicable, the CDJFS and/or the medicaid managed care plan (MCP), must also be notified. When an adverse determination is issued, the facility must then provide the individual, regardless of payment source, with notice of the intent to discharge in accordance with section 3721.16 of the Revised Code.

(4) The admitting nursing facility shall retain the written notification of the PAS/SMI and/or PAS/DD determinations received from OhioMHAS and/or DODD in the individual's resident record at the facility.

(F) An individual shall be required to undergo a new PAS/ID in accordance with the provisions of this rule when:

(1) The individual received PAS/ID, PAS/SMI and/or PAS/DD that nursing facility services are needed and has not been admitted to a nursing facility within one hundred eighty days for the most recent preadmission screening determination

that does not meet the definition of a categorical determination, as defined in rule 5160-3-15 of the Administrative Code;

(2) The individual received PAS/SMI and/or PAS/DD that nursing facility services are needed and has not been admitted to a nursing facility within the time period specified by OhioMHAS or DODD for a preadmission screening that meets the definition of a categorical determination, as defined in rule 5160-3-15 of the Administrative Code.

(G) Criteria for a hospital exemption, as defined in rule 5160-3-15 of the Administrative Code.

(1) The following individuals are eligible for a hospital exemption:

(a) The individual will be admitted to a nursing facility directly from an Ohio hospital or a unit of a hospital that is not operated by or licensed by OhioMHAS under section 5119.14 or section 5119.33 of the Revised Code, after receiving acute inpatient care at that hospital; or

(b) The individual is an Ohio resident who will be admitted to a nursing facility directly from an out-of-state hospital that is not an out-of-state psychiatric hospital or psychiatric unit within an out-of-state hospital, after receiving acute inpatient care at that hospital.

(2) Individuals, as described in paragraph (G)(1) of this rule are eligible for a hospital exemption when:

(a) The individual requires the level of services provided by a nursing facility for the condition for which he or she was treated in the hospital; and

(b) The individual's attending physician provides written certification that is signed and dated no later than the date of discharge from the hospital, that the individual is likely to require the level of services provided by a nursing facility for less than thirty days.

(H) Process for a hospital exemption, as defined in rule 5160-3-15 of the Administrative Code.

(1) The discharging hospital shall request a hospital exemption via the ODM 07000 (rev. 7/2014), "Hospital Exemption from Preadmission Screening Notification" or via the electronic system approved by ODM. Effective April 1, 2015, the discharging hospital shall request a hospital exemption via only the electronic system approved by ODM. Exceptions to electronic submission must be

approved by ODM or its designee. The ODM 07000 shall be signed and dated by the attending physician no later than the date of discharge from the hospital.

(2) The discharging hospital shall send the completed ODM 07000 to the admitting nursing facility and appropriate PAA.

(3) When the nursing facility accepts the placement of the individual, the nursing facility acknowledges that the individual meets the criteria described in paragraphs (G)(1) and (G)(2) of this rule.

(4) The admitting nursing facility shall maintain the hospital exemption documentation in the resident's record at the nursing facility.

(5) The nursing facility shall initiate the resident review process, as specified in rule 5160-3-15.2 of the Administrative Code, prior to the individual's thirtieth day in the nursing facility.

(6) When an individual admitted to a nursing facility under the hospital exemption is admitted to a hospital or transfers to another nursing facility during the first thirty days of the individual's nursing facility stay, the days in the hospital or previous nursing facility count towards the individual's thirty-day hospital exemption time period. A new hospital exemption shall not be granted during the existing exemption time period.

(7) When an individual requires a continued nursing facility stay beyond thirty days, a resident review shall be initiated by the nursing facility in accordance with rule 5160-3-15.2 of the Administrative Code.

(8) When an adverse determination of either a PAS/SMI, PAS/DD, RR/SMI or RR/DD has been issued by OhioMHAS or DODD within the last sixty calendar days prior to the new nursing facility admission, the individual is not eligible for a hospital exemption. A PAS/ID shall be initiated in accordance with paragraph (B)(1) of this rule.

(I) Medicaid payment is not available for nursing facility stays to individuals who are otherwise medicaid-eligible until the date on which the preadmission screening requirements have been met.

(J) Adverse preadmission screening determinations may be appealed in accordance with division 5101:6 of the Administrative Code.

(K) ODM has authority to assure compliance with the provisions of this rule. 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 ODM or its designees.

Effective:

Five Year Review (FYR) Dates:

_____

Certification

_____

Date

Promulgated Under:	119.03
Statutory Authority:	5164.02
Rule Amplifies:	5119.40, 5162.03, 5164.02, 5165.03
Prior Effective Dates:	12/30/1988 (Emer.), 03/31/1989 (Emer.), 06/30/1989, 05/01/1993, 01/01/1998, 12/01/2009, 11/16/2014

5160-3-15.1 Preadmission screening requirements for individuals seeking admission to nursing facilities.

(A) The purpose of this rule is to set forth the level I and level II preadmission screening requirements pursuant to section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019, to ensure that individuals seeking admission, as defined in rule 5160-3-15 of the Administrative Code, to a medicaid-certified nursing facility (NF) who have serious mental illness (SMI) and/or a developmental disability (DD) as defined in rules 5122-21-03 and 5123-14-01 of the Administrative Code are identified and not admitted to a NF unless a thorough evaluation indicates that such placement is appropriate and adequate services will be provided regardless of payor source.

(B) A level I screening as defined in rule 5160-3-15 of the Administrative Code is required:

(1) Prior to any new admission, as defined in rule 5160-3-15 of the Administrative Code, to a NF.

(2) Prior to a categorical determination, as defined in rule 5160-3-15 of the Administrative Code.

(3) When an individual is directly admitted to a NF from any of the following:

(a) A hospital that is maintained, operated, managed or governed by the Ohio department of mental health and addiction services (OhioMHAS) under section 5119.14 of the Revised Code for the care and treatment of mentally ill persons; or

(b) A free standing hospital, or unit of a hospital licensed by OhioMHAS under section 5119.33 of the Ohio Revised Code; or

(c) An out-of state psychiatric hospital or unit of such hospital.

(4) When a non Ohio resident is seeking admission to an Ohio NF from an out-of-state NF.

(a) If the non Ohio resident has been determined or suspected to have a SMI and/or DD by the other state, the other state's level II evaluation(s) of the individual and any additional supporting documentation must be submitted with the preadmission request.

(b) Submission of the required forms and documentation does not constitute completion of the level I process.

(c) The NF shall not admit an individual until the PASRR screening process as defined in rule 5160-3-15 of the Ohio Administrative Code is complete and a determination for the individual is received by the NF

pursuant to section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019.

(C) Level I screening requirements.

(1) Level I shall be administered by the Ohio department of medicaid (ODM) or its designee, OhioMHAS and/or the Ohio department of developmental disability (DODD) or one of the professionals listed in paragraph (H)(6) of this rule.

(2) The level I shall be submitted via the electronic system designated by ODM.

(3) The submitter of the level I shall be responsible for gathering information from the individual, family, legal guardian and available medical records to ensure an accurate level I and, when applicable, level II determination outcomes.

(4) The submitter shall include any necessary supporting documentation within the electronic system designated by ODM for validation.

(5) The submitter of the level I shall certify that the level I information that is submitted is true, accurate and complete to the best of their knowledge. The absence of such certification by the submitter shall result in an incomplete level I submission.

(6) For an individual seeking medicaid payment, the ODM approved level of care (LOC) assessment shall also be completed in accordance with rule 5160-3-14 of the Administrative Code, unless the individual is enrolled in a medicaid managed care plan as defined in rule 5160-26-01 of the Administrative Code.

(7) The NF is responsible for ensuring every individual residing in the NF has completed the PASRR screening process as defined in rule 5160-3-15 of the Administrative Code prior to NF admission.

(D) Level I screening outcomes.

(1) An individual shall be considered to have indications of DD when the individual meets the criteria specified in rule 5123-14-01 of the Administrative Code or the individual receives services from a county board of DD.

(a) Individuals with indications of DD shall be subject to further review by DODD in accordance with rule 5123-14-01 of the Administrative Code.

(b) Such individuals shall not be considered to have completed the PASRR screening requirements as defined in rule 5160-3-15 until DODD has issued the level II determination pursuant to section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019 and in accordance with rule 5123-14-01 of the Administrative Code.

(2) An individual shall be considered to have indications of a SMI when the individual meets the criteria specified in rule 5122-21-03 of the Adminstrative Code.

(a) Individuals with indications of a SMI shall be subject to further review by OhioMHAS, in accordance with rule 5122-21-03 of the Administrative Code.

(b) Such individuals shall not be considered to have completed the PASRR screening process as defined in rule 5160-3-15 until OhioMHAS has issued the level II determination pursuant to section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019 and in accordance with rule 5122-21-03 of the Administrative Code.

(3) Individuals determined to have no indications of a SMI and/or DD are not subject to a level II evaluation.

(a) Such individuals are considered to have met PASRR screening requirements effective on the date an accurate and complete level I screening was submitted.

(b) The printed result letter generated via the electronic system designated by ODM shall be evidence of PASRR compliance.

(4) Individuals with indications of both SMI and DD shall be subject to further review by both OhioMHAS and DODD in accordance with rules 5122-21-03 and 5123-14-01 of the Administrative Code. Such individuals shall not be considered to have met PASRR screening requirements as defined in rule 5160-3-15 until both OhioMHAS and DODD have issued the level II determination.

(5) Any individual who has been determined by DODD or OhioMHAS to be ruled out, in accordance with rules 5122-21-03 and 5123-14-01 of the Administrative Code as defined in rule 5160-3-15 of the Administrative Code, is not subject to further PASRR review.

(E) ODM or its designee, OhioMHAS and/or DODD, are the only entities that have the authority to render level I screening result outcomes. The individual shall not be admitted into the NF until prescreening requirements as defined in rule 5160-3-15 of the Administrative Code have been met pursuant to section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019.

(F) Categorical determination requirements.

(1) Requires a level I with sufficient documentation that the individual meets one of the categories below:

(a) Emergency NF stay when the individual is temporarily admitted to a NF pending further assessment in emergency situations requiring protective services, not to exceed seven days; or

(b) Respite NF stay when the individual is being admitted to a NF for a maximum of fourteen days in order to provide respite to in-home caregivers to whom the individual is expected to return following the respite stay.

(2) A face to face assessment is not required for a categorical determination provided there is enough data to determine that the individual meets the categorical requirements. In all other cases, an individualized evaluation is required.

(3) The NF shall submit the request for a categorical determination via the electronic system designated by ODM.

(4) The NF shall initiate a resident review as defined in rule 5160-3-15 of the Administrative Code for residents admitted under a categorical determination that require a stay longer than the specified time limit for the category.

(5) The NF shall not admit an individual requesting a categorical determination until the NF receives a determination for the individual from the appropriate level II entity.

(G) Hospital discharge exemption requirements.

(1) An individual does not qualify for admission using the hospital discharge exemption unless:

(a) The individual will be admitted to a NF directly from an Ohio hospital or a unit of a hospital that is not operated by or licensed by OhioMHAS under section 5119.14 or section 5119.33 of the Revised Code, after receiving acute inpatient care at that hospital; or

(b) The individual is an Ohio resident who will be admitted to a NF directly from an out-of-state hospital that is not an out-of-state psychiatric hospital or psychiatric unit within an out-of-state hospital, after receiving acute inpatient care at that hospital; and

(c) The individual requires the level of services provided by a NF for the condition for which he or she was treated in the hospital; and

(d) The individual's attending physician provides written certification that is signed and dated no later than the date of discharge from the hospital that the individual is likely to require the level of services provided by a

NF for less than thirty days.

(2) The discharging hospital shall request a hospital discharge exemption via the electronic system designated by ODM.

(3) When the NF accepts the placement of the individual, the NF acknowledges that the individual meets the criteria described in paragraph (G) of this rule.

(4) The admitting NF shall maintain the hospital discharge exemption documentation in the resident's record at the NF.

(5) The NF shall initiate a resident review, as defined in rule 5160-3-15.2 of the Administrative Code, prior to the individual's thirtieth day in the NF when an individual requires a continued stay beyond thirty days.

(6) When an individual is admitted under the hospital discharge exemption and is subsequently admitted to a hospital or transfers to another NF during the first thirty days of the individual's NF stay, the days in the hospital or previous NF count towards the individual's thirty day hospital discharge exemption time period. A new hospital discharge exemption shall not be granted during the existing exemption time period.

(7) When an adverse determination has been issued by OhioMHAS or DODD within the last sixty calendar days prior to the new NF admission, the individual is not eligible for a hospital discharge exemption. A level I screening shall be initiated in accordance with paragraph (C) of this rule.

(H) Level II determination requirements and timing.

(1) There shall be no new admission as defined in rule 5160-3-15 of the Administrative Code of any individual with a SMI or DD, regardless of payment source, unless the individual has either been determined, in accordance with rules 5122-21-03 and/or 5123:2-14-01 of the Administrative Code, to need the level of services provided by a NF, or qualifies for admission under the hospital discharge exemption provision set forth in paragraph (G) of this rule.

(2) Individuals determined by OhioMHAS and/or DODD not to meet NF level of service as defined in rule 5160-3-15, 5122-21-03 and/or 5123-14-01 of the Administrative Code shall not be admitted and medicaid payment will not be available for NF services.

(3) The level II evaluation must be complete and determination made prior to any new admission of an individual to a NF in the process of obtaining its initial medicaid certification and NF provider agreement.

(4) For current residents of a facility in the process of obtaining its initial medicaid

certification and NF provider agreement, the level II requirements must be met prior to the effective date of the NF provider agreement between ODM and the newly certified NF and/or prior to the availability of medicaid payment for the medicaid eligible individual.

(5) The level II determinations shall be made by OhioMHAS and/or DODD in accordance with section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019.

(6) In order to make an adverse determination as defined in rule 5160-3-15 of the Administrative Code, the determination shall meet both of the following conditions:

(a) A face-to-face assessment of the individual, and a review of the medical records accurately reflecting the individual's current condition, is performed by one of the following professionals within the scope of his/her practice.

(i) Medical doctor or doctor of osteopathic medicine;

(ii) Registered nurse (RN);

(iii) Master of science of nursing;

(iv) Clinical nurse specialist;

(v) Certified nurse practitioner;

(vi) Licensed social worker, under supervision of a licensed independent social worker (LISW);

(vii) Licensed independent social worker;

(viii) Professional counselor, under supervision of a licensed professional clinical counselor (PCC);

(ix) Professional clinical counselor;

(x) Psychologist;

(xi) Qualified mental health professional as defined in rule 5122-21-03 of the Administrative Code; or

(xii) Qualified intellectual disability professional; or

(xiii) Service and support administrator as defined in rule 5126.15 of the Revised Code.

(b) Authorized personnel from OhioMHAS and/or DODD other than the personnel identified in paragraph (H)(6)(a) of this rule who have conducted the face-to-face assessment, have reviewed the assessment and made the final determination regarding the need for NF services and specialized services.

(I) NF to NF transfer requirements.

(1) The admitting NF is responsible for ensuring that all individuals have met the PASRR screening requirements as defined in rule 5160-3-15 of the Administrative Code prior to entering the NF.

(2) The admitting NF is responsible to initiate a referral for a resident review as defined in rule 5160-3-15 of the Administrative Code for any individual transferred to their facility upon the discovery of a significant change in the individual's condition as defined in rule 5160-3-15 of the Administrative Code.

(3) The admitting NF is responsible for ensuring that copies of the resident's most recent level I screening results letter and, if applicable, level II evaluation and determination accompany the transferring resident.

(4) The admitting NF shall retain the written notification of the level II determinations received from the transferring NF in the individual's resident record at the facility.

(J) Level I and level II requests for additional information.

(1) ODM or its designee, OhioMHAS and/or DODD may request any additional information required in order to make a preadmission screening determination.

(2) When ODM or its designee, OhioMHAS and/or DODD require additional information in order to make the preadmission screening determination they shall provide written notice to the NF, the individual, the hospital, the referring entity, and the individual's representative, if applicable. This notice shall specify the missing forms, data elements and other documentation 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, ODM or its designee, OhioMHAS and/or DODD shall provide written notice to the individual, the individual's guardian or authorized representative, if applicable, and the NF that the admission is prohibited due to failure to provide information necessary for the completion of the preadmission screening process and that the individual may appeal the determination in accordance with the provisions of division 5101:6

of the Administrative Code. The individual, regardless of payment source, must not be admitted to the NF.

(4) When the individual or other entity submits the requested information within the timeframes specified in the notice, ODM or its designee, OhioMHAS and/or DODD shall continue with the preadmission screening process.

(K) An individual shall be required to undergo a new level I screening in accordance with the provisions of this rule when:

(1) The individual received a completed preadmission screening as defined in rule 5160-3-15 of the Administrative Code indicating that NF services are needed but the individual has not been admitted to a NF within one hundred eighty days of the most recent level II that was not a categorical determination, as defined in rule 5160-3-15 of the Administrative Code; or

(2) The individual received a categorical determination by OhioMHAS and/or DODD that NF services are needed and the individual has not been admitted to a NF within the time period specified in the categorical determination.

(L) Level I and level II notification and record retention.

(1) In accordance with all requirements specified in rule 5101:6-2-32 of the Administrative Code, ODM, or its designee, shall report the outcome of the level I to the individual, their guardian, or authorized representative, if applicable, the NF and the appropriate level II entity.

(2) In accordance with all requirements specified in rule 5101:6-2-32 of the Administrative Code, DODD and/or OhioMHAS must provide a printed copy of the level II determination to the individual, their guardian or authorized representative, if applicable, the individual's physician and the NF. The level II determination must contain notice of the individual's right to appeal an adverse determination made by the level II entities.

(3) When an adverse determination is issued, the facility must then provide the individual, their guardian or authorized representative, if applicable, with notice of the intent to discharge in accordance with section 3721.16 of the Revised Code.

(4) The NF shall maintain a printed copy of the level I result notice and if applicable, a printed copy of the level II determination received from OhioMHAS and/or DODD in the individual's resident record at the facility

(M) Preadmission screening compliance.

(1) NFs which, whether intentionally or otherwise, fail to accept any new admission, readmission, or NF transfers pursuant to this rule are in violation

of their medicaid provider agreements. This is true regardless of the payment source for the individual's NF stay.

(2) PASRR level I screening and/or level II determinations shall not be backdated.

(3) An adverse determination as the result of a preadmission evaluation performed by OhioMHAS and/or DODD may be appealed in accordance with division 5101:6 of the Administrative Code.

(4) Level II determinations made by OhioMHAS and/or DODD in accordance with section 1919(e)(7) of the Social Security Act, as in effect, January 1, 2019 cannot be overturned by ODM and/or Ohio Department of Health. Only appeal determinations made in accordance with division 5101:6 of the Administrative Code may overturn an adverse PASRR determination.

(5) Medicaid payment is not available for NF stays for individuals who are otherwise medicaid-eligible until the date on which the preadmission screening requirements as defined in rule 5160-3-15 of the Administrative Code have been met.

(6) ODM has authority to ensure compliance with the provisions of this rule, including but not limited to the following:

(a) Official notice to the NF of PASRR noncompliance;

(b) Development of a compliance corrective action plan;

(c) Mandatory PASRR training;

(d) NF site visits;

(e) Recoupment of funds for number of days PASRR requirements were not met for the resident.

(7) NF, 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 ODM.

TO BE RESCINDED

5160-3-15.2 **Resident review requirements for individuals residing in nursing facilities.**

(A) The purpose of this rule is to set forth resident review (RR) 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 mental retardation and/or other developmental disabilities (MRDD) hereafter referred to as 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.

(B) Resident review identification (RR/ID) is required for 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 rule 5160-3-15.1 of the Administrative Code, and has since been found to require more than thirty days of services at the nursing facility; or

(2) The individual's admission is a nursing facility transfer as defined in rule 5160-3-15 of the Administrative Code, or a nursing facility readmission as defined in rule 5160-3-15 of the Administrative Code and there are no preadmission screening and resident review (PASRR) records available from the previous nursing facility placement; or

(3) The individual had been in a 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 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 rule 5160-3-15 of the Administrative Code; or

(4) The individual has experienced a significant change in condition as defined in rule 5160-3-15 of the Administrative Code; or

(5) The individual received a categorical preadmission screening serious mental illness (PAS/SMI) or preadmission screening developmental disability (PAS/DD) determination as defined in rule 5160-3-15 of the Administrative Code,

and has since been found to require a stay in a nursing facility that will exceed the specified time limit for that category; or

(6) The individual received 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 (OhioMHAS) and has since been found to require a stay in a nursing facility exceeding the specified period of time.

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

(1) The 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 nursing facility has reason to believe the individual may need to remain in a nursing facility for thirty days or more.

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

(c) For those individuals specified in paragraphs (B)(3) and (B)(4) of this rule, as soon as the nursing facility has reason to believe a significant change may have occurred. The completed RR/ID request for an individual with indications of DD or SMI must be submitted to DODD and/or 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 nursing facility has reason to believe the individual may need to remain in a 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 DD and/or SMI, the completed RR/ID request must be submitted to DODD and/or 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 nursing facility shall review the completed ODM 03622 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 DD as defined in rule 5160-3-15 of the Administrative Code.

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

(b) Individuals determined to have indications of DD 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 DD shall be subject to further resident review by both 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 DD are not subject to further resident review.

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

(a) For individuals determined to have no indications of either DD or SMI, the nursing facility shall maintain the 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 SMI and/or DD, the nursing facility shall timely submit to OhioMHAS and/or DODD, as appropriate, the ODM 03622, supporting documentation, and documentation of the individual's current condition including evidence of the individual's need for services in a nursing facility. The nursing facility may submit this documentation using the electronic system approved by ODM. If medicaid is the payer, documentation must also include the ODM-approved level of care assessment.

(c) For individuals determined to have indications of DD and/or SMI, the nursing facility is responsible for the accurate and timely submission of

the RR/ID request to DODD and/or OhioMHAS in accordance with the provisions of this rule.

(4) If the individual is subject to RR/SMI and/or RR/DD and there is no record of the determinations in the medical record and/or no indication that they are in progress, the nursing facility shall notify OhioMHAS and/or DODD.

(5) If an individual who is subject to RR/ID has indications of DD and/or SMI and is discharged from the 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 nursing facility will notify DODD and/or OhioMHAS.

(6) If an individual is to be transferred to another Ohio nursing facility after submission of the RR/ID request but prior to receipt of the RR/ID, RR/DD and/or RR/SMI determinations:

(a) The sending nursing facility must notify DODD and/or OhioMHAS of the transfer. Such notice must be written and must be provided to DODD and/or OhioMHAS not later than the day the individual is transferred. The sending 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 nursing facility must also provide the receiving 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 OhioMHAS and/or DODD.

(c) The receiving nursing facility must not accept the individual as a nursing facility transfer unless it receives this information at or prior to the time the individual is admitted to the receiving nursing facility.

(d) If the transferring individual is medicaid eligible at the time of the transfer, the sending nursing facility must also provide written notice of the transfer and the current PASRR status of the individual to ODM or its designee. Such notice must be provided no later than the date on which the individual is transferred.

(7) A nursing facility that, intentionally or otherwise, accepts any readmission or nursing facility transfer, or retains as a resident any individual in violation of this rule is in violation of its medicaid provider agreement. This is true regardless of the payment source for the individual's nursing facility stay.

(8) If it is determined that the 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 nursing facility is ultimately responsible to ensure that the RR/ID is completed and the determination is on file.

(9) Individuals who have indications of SMI or DD shall not be considered to have completed the resident review process until OhioMHAS and/or DODD have issued the RR/SMI and/or RR/DD determinations.

(10) The nursing facility shall maintain the ODM 03622, all supporting documentation and results of the RR/ID in the 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/DD determination requirements:

(1) No individual with SMI or DD shall be retained as a resident in a 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 nursing facility; or

(b) The individual had resided in a nursing facility for at least thirty months at the time of the first resident review determination that established that the individual does not require the level of services provided by a nursing facility and requires specialized services only; and the individual has chosen to remain in a nursing facility following receipt of information pertaining to service alternatives to nursing facility placement.

(2) OhioMHAS and/or DODD may approve a determination that the level of services provided by a nursing facility are needed to best meet the individual's needs long term and for an unspecified period of time.

(3) OhioMHAS and/or DODD may approve a determination that the level of services provided by a nursing facility are needed to best meet the individual's needs short term and for a specified period of time.

(a) OhioMHAS and/or DODD may approve such a determination for no more than one hundred eighty days.

(b) OhioMHAS and/or DODD shall not issue an extension to the initial determination without ODM approval. Extensions shall not exceed ninety days.

(c) In conjunction with local entities, the 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 nursing facility shall initiate an RR/ID at 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 OhioMHAS during the RR/ID, in accordance with this rule and rule 5122-21-03 of the Administrative Code, to have SMI.

(5) RR/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 DD.

(6) Individuals with both SMI and DD are subject to both RR/SMI and RR/DD.

(7) OhioMHAS and/or DODD are prohibited from utilizing criteria relating to the need for nursing facility care or specialized services that are inconsistent with the statute and the ODM approved state plan for medicaid. The approved state plan for medicaid includes level of care criteria, contained in Chapter 5160-3 of the Administrative Code. Therefore, OhioMHAS and DODD must use criteria consistent with Chapter 5160-3 of the Administrative Code in making their determinations regarding whether individuals with SMI and/or DD need the level of services provided by a 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 rule 5160-3-15 of the Administrative Code is not subject to further review.

(9) An RR determination is not a level of care determination. Individuals seeking medicaid payment for the nursing facility stay shall meet the level of care requirements in accordance with Chapter 5160-3 of the Administrative Code.

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

(1) OhioMHAS and/or DODD may request additional information necessary to make a resident review determination.

(2) If OhioMHAS and/or DODD requires additional information to make the resident review determination the agency shall provide written notice to the nursing facility, the individual, and the individual's representative, if applicable. This notice shall specify the missing forms, data elements and/or other documentation 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 nursing facility that a continued stay in the nursing facility is prohibited due to failure to provide information necessary for the completion of the resident review process and 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/DD notification:

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

(a) Such written notice shall be provided to:

(i) The evaluated individual and his or her legal representative;

(ii) The nursing facility in which the individual is a resident;

(iii) The individual's attending physician;

(iv) ODM, the individual's medicaid managed care plan as defined in rule 5160-26-01 of the Administrative Code and the CDJFS, 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, the estimated length of time the individual requires the level of services provided by a nursing facility;

(ii) The determination as to whether the individual requires specialized services for SMI and/or DD;

(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 nursing facility shall provide the individual with notice of the intent to discharge. When an expiration date is specified in the written notice, the 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/DD and who do not meet the retention criteria set forth in paragraph (D)(1) of this rule must be discharged from the nursing facility and relocated to an appropriate setting in accordance with section 3721.16 of the Revised Code. The 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 nursing facility shall retain the written notification of the RR/SMI and/or RR/DD determinations received from OhioMHAS and/or DODD in the 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 DD.

(2) Medicaid payment is available for the provision of nursing facility services to medicaid-eligible individuals subject to RR/SMI and/or RR/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 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 DD or SMI, the seventh calendar day following the receipt of the ODM 03622 or RR/ID submitted via the ODM approved electronic system by OhioMHAS or DODD; or

(b) If the individual had no indications of DD 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) ODM has authority to ensure compliance with the provisions of this rule. 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 ODM or its designees.

Effective:

Five Year Review (FYR) Dates:

_____

Certification

_____

Date

Promulgated Under:	119.03
Statutory Authority:	5164.02
Rule Amplifies:	5164.02, 5162.03, 5165.03, 5119.40
Prior Effective Dates:	05/01/1993, 01/01/1998, 12/01/2009, 03/01/2015

5160-3-15.2 Resident review requirements for individuals residing in nursing facilities.

(A) The purpose of this rule is to set forth 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 (NF) from retaining individuals with serious mental illness (SMI) as defined in rule 5160-3-15 of the Administrative Code and/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. A resident review is required whenever an individual experiences a significant change in condition as defined in rule 5160-3-15 of the Ohio Administrative Code and that change has a material impact on their functioning as it relates to their mental illness and/or developmental disability status.

(B) Resident review requirements.

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

(a) The individual needs the level of services provided by a NF; or

(b) The individual had resided in a NF for at least thirty months at the time of the first resident review determination that established that the individual does not require the level of services provided by a NF, and

(i) requires specialized services only; and

(ii) the individual has chosen to remain in a NF after being informed of service alternatives to NF placement.

(2) The NF shall initiate and submit a resident review via the electronic system designated by ODM.

(3) The NF shall include supporting documentation of the individual's current condition including evidence of the individual's need for services in a NF when submitting the resident review.

(4) The NF is responsible for the accurate and timely submission of the resident review request to the Ohio department of developmental disabilities (DODD) and/or Ohio department of mental health and addiction services (OhioMHAS) and for ensuring that a copy of the resident review determination is maintained in the resident's file in accordance with the provisions of this rule.

(C) Resident review is required for an individual who meets any of the following criteria:

(1) The individual was admitted under the hospital discharge exemption as defined in rule 5160-3-15 of the Administrative Code, and has since been found to require more than thirty days of services at the NF. The resident review shall be no later than the twenty-ninth day from the date of admission; or

(2) The individual had been in a NF and was admitted directly into a different NF following an intervening hospital stay for psychiatric treatment, or was readmitted to the same NF directly following a hospital stay for psychiatric treatment. A resident review for a significant change in condition shall be submitted within twenty-four hours of the individual's NF admission to a different NF or readmission to the same NF; or

(3) The individual has experienced a significant change in condition as defined in rule 5160-3-15 of the Administrative Code. The resident review shall be submitted within seventy-two hours following identification of the significant change; or

(4) The individual was admitted as a result of a negative level I preadmission screening and there is subsequent evidence of possible, but previously unrecognized or unreported, SMI and/or DD; or

(5) The individual received a categorical determination as defined in rule 5160-3-15 of the Administrative Code, and has since been found to require a stay in a NF that will exceed the specified time limit for that category. Unless the individual meets the criteria for a resident review extension described in paragraph (F) of this rule, the resident review shall be submitted as soon as the NF has reason to believe the individual may need to remain in a NF beyond the expiration date of the categorical determination but no later than the expiration date of the categorical determination; or

(6) The individual received a resident review determination for a specified period of time as established by DODD and/or OhioMHAS and has since been found to require a stay in a NF exceeding the specified period of time. The resident review shall be submitted at least thirty days prior to the expiration of the determination.

(D) Resident review outcomes.

(1) Individuals determined to have no indications of SMI and/or DD are not subject to further resident review.

(2) Individuals determined to have indications of SMI and/or DD shall be subject to further resident review by the OhioMHAS and/or DODD in accordance with rules 5122-21-03 and 5123-14-01 of the Administrative Code.

(3) Individuals determined to have indications of both SMI and DD shall not be

considered to have completed the resident review process until both OhioMHAS and DODD have issued the resident review determinations.

(4) If an individual who is subject to a resident review has indications of SMI and/or DD and is discharged from the NF after submission of the resident review request but prior to the determination, and/or prior to the due date for the request, the NF will notify OhioMHAS and/or DODD.

(5) Individuals previously determined by OhioMHAS and/or DODD to be ruled out from preadmission screening in accordance with rules 5122-21-03 and 5123-14-01 of the Administrative Code are not subject to further review.

(E) Resident review placement determinations.

(1) OhioMHAS and/or DODD may approve a determination that the level of services provided by the NF will meet the individual's long term needs and for an unspecified period of time.

(2) OhioMHAS and/or DODD may approve a determination that the level of services provided by a NF will meet the individual's short term needs and for a specified period of time.

(a) OhioMHAS and/or DODD may approve such a determination for no more than one hundred eighty days.

(b) Unless a resident review extension is requested and granted in accordance with paragraph (F) of this rule, the NF shall initiate a resident review in accordance with paragraph (C)(4) of this rule when the individual stay exceeds the specified period of time.

(c) In conjunction with local entities, the NF shall initiate and continue discharge planning activities throughout the period of time specified on the determination notice.

(F) Resident review extension request requirements.

(1) A resident review determination extension may be requested by the NF on behalf of an individual that received a resident review determination for a specified period of time as established by the DODD and/or OhioMHAS and is believed to require a stay in a NF exceeding the specified period of time.

(2) The NF shall submit the resident review extension request for consideration directly to DODD and/or OhioMHAS for approval via the electronic system approved by ODM.

(3) Extension requests and approvals shall not exceed ninety days.

(4) In order to receive consideration for an extension to the initial determination, the NF shall initiate a resident review at least thirty days prior to the expiration of the determination.

(a) The NF is responsible for the accurate and timely submission of the resident review extension request to DODD and/or OhioMHAS in accordance with the provisions of this rule.

(b) Resident review extension requests submitted after the expiration of the individual's determination are in violation of this rule and the NF will be considered out of compliance with PASRR requirements in accordance with this rule from the day after the expiration of specified date stated on the initial resident review until the day the resident review extension is subsequently approved if applicable, by DODD and/or OhioMHAS.

(c) DODD and/or OhioMHAS shall notify ODM in writing when instances specified in paragraph (F)(4)(b) of this rule occur.

(5) The NF shall include supporting documentation of the individual's current condition including evidence of the individual's need for services in a NF past the specified period of time established by DODD and/or OhioMHAS when submitting the request for an extension.

(6) 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.

(7) DODD and/or OhioMHAS shall keep record of all resident review extension requests received by NFs and approved or denied by DODD and/or OhioMHAS.

(8) DODD and/or OhioMHAS shall submit a resident review extension summary in the form of a list to ODM on a monthly basis with the following information:

(a) Date extension request was received by DODD and/or OhioMHAS;

(b) Name of NF;

(c) Name of resident;

(d) Date of original specified resident review;

(e) The number of previous granted extensions and number of days currently being requested by the NF;

(f) Reason for extension; and

(g) Date of approval or denial of extension request.

(9) The NF shall maintain a printed copy of the resident review extension approval and all supporting documentation in the resident's record at the NF.

(G) NF to NF transfers:

(1) If an individual is to be transferred to another Ohio NF after submission of the resident review request but prior to receipt of the resident review determination:

(a) The transferring NF must notify OhioMHAS and/or DODD of the transfer. Such notice must be written and must be provided to OhioMHAS and/or DODD no later than the day the individual is transferred. The transferring NF must provide sufficient contact information to enable the completion of the resident review process.

(b) At or prior to the time the individual is transferred, the transferring NF must also provide the admitting NF with copies of all PASRR related documents pertaining to the individual and written notice of the individual's current PASRR status. If known, the notice must include contact information for the resident review evaluator assigned by OhioMHAS and/or DODD.

(c) The admitting NF shall not accept the individual as a NF transfer unless it receives this information at or prior to the time the individual is admitted to the NF.

(d) If the transferring individual is medicaid eligible at the time of the transfer, the transferring NF must also provide written notice of the transfer and the current PASRR status of the individual to ODM or its designee. Such notice must be provided no later than the date on which the individual is transferred.

(H) Resident review requests for additional information:

(1) OhioMHAS and/or DODD may request additional information necessary to make a resident review determination.

(2) If OhioMHAS and/or DODD require additional information to make the resident review determination the agency shall provide written notice to the NF, the individual, and the individual's representative, if applicable. This notice shall specify the missing forms, data elements and/or other documentation 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 that a continued stay in the NF is prohibited due to failure to provide information necessary for the completion of the resident review process and the individual may appeal the determination in accordance with the provisions of division 5101:6 of the Administrative Code.

(I) Resident review notification requirements:

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

(a) Such written notice shall be provided to:

(i) The evaluated individual and his or her legal representative;

(ii) The NF in which the individual is a resident;

(iii) The individual's attending physician;

(iv) The individual's medicaid managed care plan, if applicable, as defined in rule 5160-26-01 of the Administrative Code.

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

(i) The determination as to whether and, when applicable, the estimated length of time the individual requires the level of services provided by a NF;

(ii) The determination as to whether the individual requires specialized services for SMI and/or DD;

(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 shall provide the individual with notice of the intent to discharge. When an expiration date is specified in the written notice, the NF shall provide the individual with notice of the intent to discharge at least thirty days prior to the expiration date.

(3) All individuals who are subject to a resident review and who do not meet the retention criteria set forth in paragraph (B)(1) of this rule must be discharged from the NF and relocated to an appropriate setting in accordance with section 3721.16 of the Revised Code.

(4) The NF 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.

(5) The NF shall retain the written notification of the resident review determinations received from OhioMHAS and/or DODD in the resident's record at the facility.

(J) Medicaid payment for services.

(1) Medicaid payment is available for the provision of NF services to medicaid-eligible individuals subject to resident review only when the individual has met the criteria for retention set forth in paragraph (B)(1) of this rule.

(2) A resident review determination is not a level of care determination. Individuals seeking medicaid payment for the NF stay shall meet the level of care requirements in accordance with Chapter 5160-3 of the Administrative Code.

(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 resident review is not initiated by the NF within the timeframes specified in paragraph (C) 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 resident review was due through the date in which the resident review determination was received by the NF.

(K) Resident review compliance.

(1) NFs who fail to initiate a resident review and/or request a resident review extension pursuant to this rule are in violation of their medicaid provider agreements. This is true regardless of the payment source for the individual's NF stay.

(2) Adverse PASRR determinations may be appealed in accordance with division 5101:6 of the Administrative Code.

(3) Level II resident review determinations made by OhioMHAS and/or DODD in accordance with section 1919(e)(7) of the Social Security Act, as in effect

January 1, 2019 cannot be overturned by ODM or Ohio department of health. Only appeals determinations made in accordance with division 5101:6 of the Administrative Code may overturn an adverse PASRR determination.

(4) If the individual is subject to resident review and there is no record of the determination in the medical record and no indication that they are in progress, the NF shall notify OhioMHAS and/or DODD.

(5) OhioMHAS and/or DODD must utilize criteria relating to the need for NF care or specialized services that is consistent with section 1919(e)(7) of the Social Security Act, as in effect January 1, 2019, and the ODM approved state plan for medicaid, including criteria consistent with Chapter 5160-3 of the Administrative Code, in making their determinations whether individuals with SMI and/or DD meet the level of services provided by a NF.

(6) ODM has authority to ensure compliance with the provisions of this rule, including but not limited to the following:

(a) Official notice to the NF of PASRR noncompliance;

(b) Development of a compliance corrective action plan;

(c) Mandatory PASRR training;

(d) NF site visits;

(e) Recoupment of funds for number of days PASRR requirements were not met for the resident in accordance with 42 C.F.R. 483.122.