

TO BE RESCINDED

173-43-03

Required consultations and exemptions.

This rule sets forth the conditions under which determinations are made concerning whether an individual is required to be provided a consultation or may be exempt from that requirement. It also describes the conditions under which a NF or ODA's designee may exempt an individual from the requirement to be provided a consultation.

(A) ODA's designee shall provide each individual in the following categories with a consultation:

- (1) An individual who applies or indicates an intention to apply for admission to a NF, regardless of the source of payment to be used for the care in the NF, so long as the individual is not exempted by paragraph (B) or (C) of this rule;
- (2) A NF resident who applies or indicates an intention to apply for medicaid, so long as the individual is not exempted by paragraph (B) or (C) of this rule;
- (3) An individual who is not seeking medicaid payment and is likely to deplete his or her financial resources within six months after admission to a NF to a level at which the individual would become financially eligible for medicaid as described in paragraph (D)(1) of this rule, so long as the individual is not exempted by paragraph (B) or (C) of this rule;
- (4) A NF resident who was admitted under a time-limited convalescent exemption or who was admitted under a categorical determination in accordance with rule 5101:3-3-15.1, rule 5122-21-03, or rule 5123:2-14-01 of the Administrative Code, but has since been found to require a stay in a NF that will exceed the time limits specified in those rules, so long as the individual is not exempted by paragraph (B) or (C) of this rule. In this case, the NF shall inform ODA's designee of such an individual no later than seventy-two hours after the expiration of the time limit. Upon being notified, ODA's designee shall determine whether or not a consultation is required; or,
- (5) Any individual who requests a consultation.

(B) Either the NF to which the individual is seeking admission, the NF to which the individual is seeking continued residency, or ODA's designee shall determine that ODA's designee is not required to provide each individual in the following categories with a consultation unless the individual or the individual's representative requests a consultation:

- (1) An individual who is to receive care in a NF under a contract for continuing

care as defined in section 173.13 of the Revised Code;

- (2) An individual who has a contractual right to admission to a NF operated as part of a system of continuing care in conjunction with one or more facilities that provide a less-intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement;
 - (3) An individual who is to receive continual care in a home for the aged that is exempt from taxation under section 5701.13 of the Revised Code;
 - (4) An individual who is seeking admission to a facility that is not a NF with a provider agreement under section 5111.22 of the Revised Code;
 - (5) An individual who is seeking a NF transfer. A NF transfer occurs when an individual's place of residence is changed from one Ohio medicaid-certified NF to another Ohio medicaid-certified NF, with or without an intervening hospital stay;
 - (6) An individual who is to be readmitted to the same NF following a period of hospitalization;
 - (7) An individual who is seeking admission to a NF to receive hospice services;
 - (8) An individual who is currently enrolled in an HCBS waiver, or was enrolled in a HCBS waiver prior to the NF admission being sought, regardless of the payment source being sought for the NF admission; or,
 - (9) An individual who is seeking admission to a NF, or who is already a resident of a NF, who is being actively case managed by medicare or another funding source that will case manage the individual while in the NF.
- (C) ODA's designee may determine that it is not required to provide each individual in the following categories with a consultation unless the individual or the individual's representative requests a consultation:
- (1) An individual who is being admitted to a NF directly from a hospital and is expected to have a short length of stay (ninety days or less) . In making this determination, ODA's designee shall consider factors such as medical condition, probable need for long-term care services, history of hospitalizations, availability of informal supports, and awareness of options

available;

- (2) An individual who has care needs that clearly exceed the services that are available to the individual in an alternative setting to the NF. To make this determination, ODA's designee shall consider the availability of existing formal and informal support systems, the availability of potential formal and informal support systems, the functional abilities and limitations of the individual, the individual's diagnosis, the individual's prognosis, and the individual's plan of treatment, placing special emphasis on end-of-life treatment, because such a treatment is most likely an indicator that the individual will not benefit from a consultation;
 - (3) An individual who has been admitted to a NF under a convalescent exemption from PASRR, or under a time-limited categorical PAS-SMI or PAS-MR/DD determination as defined in rules 5122-21-03 and 5123:2-14-01 of the Administrative Code; and,
 - (4) An individual for whom ODA's designee cannot complete a consultation within the required time frame, as described in paragraph (D) of rule 173-43-04 of the Administrative Code.
- (D) An individual or the representative of an individual may forego the opportunity to participate in a consultation only if either of the following conditions exist:
- (1) The individual has not applied for, or indicated an intent to apply for, medicaid payment for their NF stay and ODA's designee has determined that the individual is not likely to spend down his or her resources within six months of admission. ODA's designee shall make this determination based upon a statement demonstrating whether or not the resources of the individual will be depleted within six months of admission, which may make the individual financially eligible for medicaid. The individual or representative of the individual shall base the statement upon knowledge of the current cost for a six-month stay in the NF. If the individual or the representative of the individual does not know the current cost, the NF shall provide that information, upon request, to the individual or the representative of the individual; or,
 - (2) The individual has already received an in-person LTC consultation from the administrative agency; regardless of the payment source being sought for the NF admission.
- (E) At the individual's request, ODA's designee may provide written or verbal information regarding long-term care services even if the individual does not

require a consultation.

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Certification

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Date

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