

5123:2-14-01

Preadmission screening and resident review for nursing facility applicants and nursing facility residents with mental retardation and/or other developmental disabilities.

(A) Purpose

The purpose of this rule is to set forth a process for the Ohio department of developmental disabilities and county boards of developmental disabilities to determine whether an individual is eligible for admission to a nursing facility (NF) or eligible to continue to receive services in a NF.

(B) Applicability

This rule applies to individuals who are seeking admission to a NF who have indications of mental retardation and/or other developmental disabilities (MRDD), residents of a NF who have indications of MRDD, and persons acting on behalf of these applicants or residents. This rule does not apply to individuals seeking readmission to a NF after having been transferred from a NF to a hospital for care nor to individuals being transferred from one NF to another NF, with or without an intervening hospital stay.

(C) Definitions

(1) "Adverse determination" means a determination made in accordance with this rule and rules 5101:3-3-15.1, 5101:3-3-15.2, and 5122-21-03 of the Administrative Code, that an individual does not require the level of services provided by a nursing facility (NF). A determination that an individual does not require NF 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 approved to perform preadmission screening and resident review (PASRR) evaluations within the scope of his/her practice:

(i) Physician;

(ii) Registered nurse;

(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;

- (vii) Licensed independent social worker;
 - (viii) Professional counselor, under supervision of a professional clinical counselor;
 - (ix) Professional clinical counselor; or
 - (x) Psychologist.
 - (b) Authorized personnel from the department and/or the Ohio department of mental health (ODMH), other than the personnel reflected above who have conducted the face-to-face assessment, reviewed the assessment and made the final determination regarding the need for NF services and specialized services.
- (2) "Categorical determination" means a preadmission screening for mental retardation and/or other developmental disabilities (PAS-MRDD) or preadmission screening for serious mental illness (PAS-SMI) determination which may be made for an individual with MRDD and/or SMI without first completing a full PAS-MRDD and/or PAS-SMI evaluation when the individual's circumstances fall within one of the following two categories:
- (a) The individual requires an emergency NF stay, as defined in rule 5101:3-3-14 of the Administrative Code; or
 - (b) The individual is seeking admission to a NF for a respite NF stay, as defined in rule 5101:3-3-14 of the Administrative Code.
- (3) "County board" means a county board of developmental disabilities as established under Chapter 5126. of the Revised Code.
- (4) "Department" means the Ohio department of developmental disabilities as established by section 121.02 of the Revised Code.
- (5) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.
- (6) "Hospital (convalescent) exemption" means an exemption from preadmission screening for a new admission, as defined in rule 5101:3-3-14 of the Administrative Code, to a NF that meets the following criteria:
- (a) The individual is to be admitted directly from an Ohio hospital after receiving acute inpatient care at that hospital or is an Ohio resident being admitted directly from an out-of-state hospital after receiving acute inpatient care at that hospital; and
 - (b) The individual requires the level of services provided by a NF for the

condition which was treated in the hospital; and

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

(7) "Individual" for the purposes of this rule, means a person, regardless of the payment source, who is seeking admission, readmission, or transfer to a NF, or who resides in a NF.

(8) "Mental retardation and/or other developmental disabilities" (MRDD). An individual is considered to have mental retardation and/or a developmental disability if he or she has:

(a) A level of retardation described in the "American Association on Mental Retardation" publication, "Mental Retardation: Definition, Classification and Systems of Support," (2002) or most recent edition; or

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

(i) It is attributable to cerebral palsy, epilepsy, or any other condition other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and requires treatment or services; and

(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.

(9) "Nursing facility" (NF) 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 job and family services (ODJFS) 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 NF for the purposes of this rule.

(10) "Physician" means a doctor of medicine or osteopathy.

(11) "Preadmission screening" (PAS) means the preadmission portion of the PASRR requirements mandated by section 1919(e)(7) of the Social Security Act, which shall be implemented in accordance with this rule and rules 5101:3-3-15.1 and 5122-21-03 of the Administrative Code.

(12) "Preadmission screening for mental retardation and/or other developmental disabilities" (PAS-MRDD), also known as a level two screen, means the process by which the department determines:

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

(b) If the level of services provided by a NF is needed, whether the individual requires specialized services for MRDD.

(13) "Preadmission screening for serious mental illness" (PAS-SMI), also known as a level two screen, means the process by which ODMH 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 NF or another type of setting; and

(b) Whether the individual requires specialized services for SMI.

(14) "Preadmission screening identification" (PAS/ID), also known as a level one screen, means the process by which ODJFS or its designee screens individuals who are seeking new admissions to identify those who have

indications of mental retardation and/or other developmental disabilities or serious mental illness as defined in rule 5101:3-3-14 of the Administrative Code, and who, therefore, shall be further evaluated by the department and/or ODMH.

- (15) "Resident review" (RR) means the resident review portion of the PASRR requirements mandated by section 1919(e)(7) of the Social Security Act, which shall be implemented in accordance with this rule and rules 5101:3-3-15.2 and 5122-21-03 of the Administrative Code.
- (16) "Resident review for mental retardation and/or other developmental disabilities" (RR-MRDD) means the process set forth in this rule by which the department determines whether, due to the individual's physical and mental condition, an individual who is subject to RR, and who has MRDD, requires the level of services provided by a NF or another type of setting and whether the individual requires specialized services for MRDD.
- (17) "Resident review identification" (RR/ID) means the process set forth in this rule and rules 5101:3-3-15.2 and 5122-21-03 of the Administrative Code by which individuals who are subject to RR shall be identified.
- (18) "Ruled out" means that an individual has been determined not to be subject to further review by the department or ODMH. An individual may be ruled out for further review at any point in the PASRR process if the department or ODMH finds that the individual being evaluated:

 - (a) Does not have MRDD 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 of SMI and does not have a diagnosis of MRDD or a related condition.
- (19) "Specialized services for mental retardation and/or other developmental disabilities" (specialized services) means the services specified by the PAS-MRDD or RR-MRDD determination and provided or arranged for by the county board resulting in continuous active treatment to address needs in each of the life areas for which functional limitations are identified by the county board. Specialized services shall be made available at the intensity and frequency necessary to meet the needs of the individual.
- (D) Referral for preadmission screening for mental retardation and/or other developmental disabilities (PAS-MRDD)

 - (1) ODJFS or its designee shall forward a request for a PAS-MRDD for individuals who have indications of MRDD as follows:

(a) Requests for individuals relocating from outside of Ohio who are not Ohio residents shall be forwarded to the department for review and determination in accordance with rule 5101:3-3-15.1 of the Administrative Code.

(b) Requests for categorical determinations shall be forwarded to the department.

(c) All other requests shall be forwarded to the county board of the county in which the request is initiated.

(2) No one who has indications of MRDD shall move into a NF in Ohio until the PAS-MRDD determinations have been made by the department.

(E) PAS-MRDD conducted by county boards

(1) Within ten working days of receipt of the referral by ODJFS or its designee of an individual for PAS-MRDD, the county board shall gather data, complete an evaluation, and submit its recommendations in the form of a written evaluative report to the department regarding whether the individual has MRDD and whether NF services and specialized services are required.

(2) The county board shall be responsible for requesting any information necessary to make the PAS-MRDD evaluation and recommendations. The evaluation shall be based on relevant data that are valid, accurate, and reflect the current functional status of the individual being evaluated.

(3) Persons completing the PAS-MRDD evaluations shall not have a direct or indirect affiliation with a NF.

(4) PAS-MRDD evaluations shall involve the individual being evaluated, the individual's guardian, and the individual's family if available and if the individual or guardian agrees to family participation.

(5) PAS-MRDD evaluations shall be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated.

(6) The PAS-MRDD evaluation has three components:

(a) MRDD assessment. The assessment shall be based on the following documentation:

(i) Intellectual functioning as measured by a psychologist or other related condition(s) as identified by a physician; and

- (ii) A determination of whether the individual meets MRDD eligibility criteria pursuant to section 5123.01 of the Revised Code.
 - (b) NF needs assessment. The assessment shall be based on an evaluation of written documentation which shall include the following information:
 - (i) The history and physical examination performed by a registered nurse, a clinical nurse specialist, a certified nurse practitioner, an individual registered by the state medical board as a physician assistant under Chapter 4730. of the Revised Code, or a physician. If the history and physical examination are performed by someone other than a physician, a physician shall review and concur with the conclusions. If the history and physical examination are performed by a clinical nurse specialist or a certified nurse practitioner who has entered into a standard care arrangement with a collaborative physician in accordance with section 4723.431 of the Revised Code, physician review is only required as indicated in the standard care arrangement.
 - (ii) Current nursing care needs.
 - (iii) Current medications.
 - (iv) Current functional status including any therapy assessments and reports (e.g., physical therapy, speech therapy, occupational therapy, or respiratory therapy).
 - (v) Current social history, including current living arrangement prior to admission and any medical problems, including their impact on the individual's independent functioning.
 - (c) Specialized services needs assessment. The county board shall evaluate and recommend whether the individual currently has a need for specialized services and shall document the type of specialized services to be provided by the county board. The recommendation for specialized services shall be made for individuals whose needs are such that continuous supervision, treatment, and training by qualified MRDD personnel are necessary to address needs in each of the life areas for which functional limitations have been identified.
- (7) If the individual does not meet MRDD eligibility criteria, no further review by the county board is required; the county board shall submit documentation and a recommendation to the department that the individual be ruled out.
- (8) The county board shall submit its recommendations in the form of a written evaluative report to the department regarding whether the individual has

MRDD and whether NF services and specialized services are required. The report shall:

- (a) Identify the name and professional title of the persons who performed the evaluations and the dates upon which the evaluations were performed;
 - (b) Provide a summary of the evaluated individual's medical and social history;
 - (c) If NF services are recommended, identify the services which are required to meet the evaluated individual's needs;
 - (d) Identify whether specialized services are needed;
 - (e) Include the basis for the report's conclusions; and
 - (f) Include copies of the documentation gathered and reviewed in accordance with paragraph (E)(6) of this rule.
- (9) The department may request additional information when necessary to make a determination.
- (10) Within ten working days of receipt of the county board's recommendations and documentation, the department shall determine:
- (a) Whether the individual has MRDD.
 - (b) Whether the individual requires the level of services provided by a NF based on a comprehensive analysis of all data and consideration of the most appropriate placement such that the individual's needs for treatment do not exceed the level of services which can be delivered in the NF.
 - (c) Whether the individual requires specialized services.
- (11) The department shall issue a determination in the form of a written report in accordance with paragraph (I) of this rule.
- (12) One of two outcomes of the PAS-MRDD review is possible:
- (a) The individual requires the level of services provided by a NF and therefore may be admitted to a NF.
 - (b) The individual does not require the level of services provided by a NF and therefore shall not be admitted to a NF. The county board shall assist the individual and/or his/her guardian with alternative placement options, services, and resources as may be necessary to ensure the

health and welfare of the individual.

(F) PAS-MRDD for categorical determination

- (1) When ODJFS or its designee finds indications of a categorical determination, it shall forward the request for PAS-MRDD directly to the department.
- (2) The department shall make a categorical determination that an individual requires the level of services provided by a NF when:
 - (a) Within the next twenty-four hours, the individual is seeking admission to a NF due to a situation involving the individual's health and safety such that immediate placement in a NF is necessary to avoid serious risk to the individual, with placement not to exceed seven days; or
 - (b) Within the next sixty days, the individual is seeking admission to a NF for up to fourteen days of respite for the caregiver and plans to return to the caregiver at the end of the NF stay.
- (3) The department shall issue a determination in the form of a written report in accordance with paragraph (I) of this rule which:
 - (a) Identifies the name and professional title of the persons making the categorical determination and the date on which the determination was made;
 - (b) Documents the type of categorical determination made and describes the nature of any further screening that is required;
 - (c) Identifies, to the extent possible based on the available data, NF services, including any mental health or specialized psychiatric rehabilitative services, that may be needed; and
 - (d) Includes the basis for the report's conclusions.
- (4) An individual who, on the basis of the categorical determination, requires the services provided by a NF, shall not receive specialized services.

(G) Resident review for mental retardation and/or other developmental disabilities (RR-MRDD)

- (1) The NF shall submit the RR/ID to the department in accordance with rule 5101:3-3-15.2 of the Administrative Code.
- (2) Upon receipt of the RR/ID, the department shall notify the county board.
- (3) Within ten working days of notification by the department, the county board

shall gather data, complete an evaluation, and submit its recommendations and documentation to the department in accordance with the process set forth in paragraphs (E)(2) to (E)(8) of this rule.

(4) Within ten working days of receipt of the county board's recommendations and documentation, the department shall determine whether the individual has MRDD, whether the individual requires the level of services provided in a NF, and whether the individual requires specialized services for MRDD in accordance with the process set forth in paragraphs (E)(9) to (E)(11) of this rule.

(5) Possible outcomes of the RR-MRDD include:

(a) A NF resident with MRDD who is determined to require the level of services provided by a NF may continue to reside in the NF.

(b) A NF resident with MRDD who has resided in a NF for thirty months or longer who is determined not to require the level of services provided by a NF, but does require specialized services for MRDD, may choose to continue to reside in the NF or receive covered services in an alternative setting. The department shall inform the resident of the institutional and non-institutional alternatives covered in the state plan for medical assistance. If the resident chooses to leave the NF, the department shall clarify the effect on eligibility for services under the state plan for medical assistance, including its effect on readmission to the facility. Wherever the resident chooses to reside, the county board shall meet the resident's specialized services needs as identified in the individual's service plan.

(c) A NF resident with MRDD who has resided in a NF for less than thirty months who is determined not to require the level of services provided by a NF, but does require specialized services for MRDD shall be discharged to an appropriate setting where the county board shall meet the resident's specialized services needs as identified in the individual's service plan. The county board, in conjunction with the NF, shall arrange for a safe and orderly discharge to an appropriate setting.

(d) A NF resident with MRDD who has resided in a NF for less than thirty months who is determined not to require the level of services provided by a NF shall be discharged. The county board, in conjunction with the NF, shall arrange for a safe and orderly discharge to an appropriate setting.

(H) Coordination with ODMH

The department shall coordinate with ODMH on determinations for individuals who are subject to both PASRR-MRDD and PASRR-SMI.

(I) Notification of determination of PAS-MRDD or RR-MRDD(1) The department shall prepare a written report which includes:

- (a) The determination as to whether the individual has MRDD;
- (b) The determination as to whether the individual requires the level of services provided by a NF;
- (c) The determination as to whether the individual requires specialized services that shall be provided/arranged by the county board resulting in continuous active treatment to address needs in each of the life areas for which functional limitations are identified by the county board;
- (d) The placement and/or service options that are available to the individual consistent with these determinations;
- (e) Discharge arrangements, if applicable; and
- (f) The right to appeal, as outlined in paragraph (K) of this rule.

(2) The department shall provide a copy of its written report to:

- (a) The evaluated individual and when applicable, his/her guardian;
- (b) The individual's attending physician;
- (c) The admitting or retaining NF for inclusion in the individual's medical record;
- (d) The discharging hospital if the individual is seeking NF admission from a hospital;
- (e) The county board where the individual resides and when applicable, the county board where the NF is located; and
- (f) In the case of an adverse resident review determination, ODJFS.

(3) The department shall document all determinations in the individual's file which shall be maintained at the department.(J) Hospital (convalescent) exemption

- (1) Upon notification from ODJFS or its designee of a NF admission based on a hospital (convalescent) exemption, the department shall begin to monitor the admission in accordance with rule 5101:3-3-15 of the Administrative Code.

- (2) The department shall notify the county board in the individual's home county and when applicable, the county board where the NF is located.
- (3) The department shall contact the NF prior to the thirtieth day of the individual's stay to assess the need for a resident review.
- (4) If the NF indicates that the individual may need more than a thirty-day stay, the department shall request that the NF initiate the resident review process.

(K) Appeals

- (1) The individual or the individual's guardian may, within ninety calendar days of the date of action, appeal adverse determinations made by the department by filing an appeal with ODJFS in accordance with division 5101:6 of the Administrative Code.
- (2) The department shall conduct an informal reconsideration of the case when notified of appeal or at the request of the individual or guardian.
- (3) If the individual is subject to both PASRR-MRDD and PASRR-SMI, the informal reconsideration and appeal shall be conducted jointly by the department and ODMH.

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