



To: The Ohio Department of Developmental Disabilities
Date: February 28, 2024
Re: 5123-17-02 MUI Rule

Thank you for considering the Ohio Provider Resource Association's (OPRA) comments on proposed changes to the MUI Rule.

On behalf of the nearly 190 Members of the Ohio Provider Resource Association (OPRA), OPRA thanks the Ohio Department of Developmental Disabilities (DODD) for their continued effort to ensure Ohioans with intellectual and developmental disabilities (I/DD) continue to have access to necessary Medicaid-funded long-term care services. OPRA and its members are grateful for the opportunity to provide comments regarding the proposed rules.

We recognize the importance and necessity of a robust critical incident system, and are committed to the health, safety, and welfare of all individuals served within Ohio's I/DD system. We also maintain our commitment to administrative simplification. While we appreciate the chance to review the Major Unusual Incident (MUI) rule, we were surprised at the lack of significant changes within the current draft and feel the need for more substantive changes. It should also be noted that the current MUI rule is not up for its 5-year review until November 2025. With that in mind, we offer the comments below as examples of areas where we have additional concerns and believe there are opportunities for more efficiencies and streamlining of the MUI rule and system.

This rule, like many others, uses CMS requirements as a base; however, we believe that the MUI rule remains extremely burdensome and over-arching in its scope, far exceeding the critical incident management system required by CMS. We fully recognize the value and importance of the MUI Rule in safeguarding the well-being of individuals with I/DD, while at the same time promoting overall system improvement and accountability. With these principles in mind, OPRA believes that an approach that looks at the 5 key areas listed below will promote systemic change within the rule will ultimately produce a more efficient and person-centered system of support.

1. Incorporate the concepts of Just Culture within investigations. Just Culture is a concept that looks at the need for accountability within an organization and emphasizes a focus and culture of learning rather than blame. Additionally, it provides an opportunity for learning from past actions which in turn promotes a system of increased reporting of incidents. We believe that the concepts of Just Culture should be a key component in MUI training for Investigative Agents, employees of County Boards, and providers.
2. The category for the MUI being investigated should be determined after the investigation. In the current system, an incident is classified before a complete investigation takes place. Classifying the category after the investigation would lead to

ensuring that the person served is provided with the appropriate healthcare professional to ensure continued health and safety and continuity of care.

3. Reduce the 9-page MUI report to a more manageable number of pages and eliminate redundancies. All elements within the current report should be re-evaluated to determine their necessity in reporting and investigating and how the length of the form may be a barrier to reporting.
4. Allow for chronic conditions to be managed by the person's ISP team for hospitalizations and unapproved behavior supports. Reconsider how and when unscheduled hospitalizations and unapproved behavior supports are classified.
5. Align the MUI rule with the CMS expectations for critical incident management and Ohio's other waivers. This would include ensuring the same standards of reporting and investigation across the spectrum of services under the umbrella of CMS (Nursing Home LOC Waivers, Ohio Rise, etc.).

Ohio's MUI rule plays an extremely critical role in ensuring the health, safety, dignity, and quality of life for individual's receiving services and is often touted by others as a benchmark within the industry. However, there are still improvements within the system that need to be made. Ohio is a state that encourages innovation, investment, and continuous improvement. The current MUI system presents many challenges that could be addressed through a more comprehensive and thorough review of the MUI rule.

As always, OPRA would welcome the opportunity to provide additional feedback and language regarding the aspects of the rules mentioned above and how they may negatively impact providers. As stated earlier, we are very appreciative of DODD's efforts to streamline and structure the MUI rule. And while we are supportive of many aspects of these changes, we also urge as much flexibility as possible as well as consideration of the comments submitted.

Sincerely,

Rachel Hayes
Director of Residential Resources
Ohio Provider Resource Association