

# MUI Rule 5123-17-02

Review of 11/14/24 Proposed Amendments  
Ohio Provider Resource Association

# History and Timeline of Current Rules

- [MUI Rule](#) was opened mid-cycle in 2020. The process did not meet the requirement for a full rule review due to the rule being opened as an emergency filing.
- 5-year review was originally scheduled for January 1, 2024. DODD requested a 180-day extension on June 29, 2024.
- Review of MUI rule with DODD and a stakeholder group consisting of representatives of providers (ICF and waiver providers), representatives of county boards, investigative agents, parents/guardians, and individuals served began in November 2023 and is still ongoing.
- [CMS Access Rule](#) released April 2024.

# Access Rule and Critical Incident Management

- **Incident Reporting and Tracking**  
States must implement robust reporting and incident tracking mechanisms that allow stakeholders (such as caregivers, family members, and beneficiaries) to report and track critical incidents easily.
- **Standardized Definitions and Guidelines**  
States must adopt standardized definitions for what constitutes a critical incident.
- **Timely Investigation and Response**  
States must establish processes for the prompt investigation and resolution of incidents. Processes include timelines for reporting and follow-up and ensuring that incidents are addressed quickly to mitigate harm.
- **Data Collection and Analysis**  
Regular data analysis for understanding the root causes of incidents.
- **Public Reporting and Transparency**  
States must provide public access to incident data, making information available on both the occurrence and resolution of incidents.
- **Ongoing Stakeholder Engagement**  
CMS mandates that states involve stakeholders, including Medicaid beneficiaries and advocacy groups, to provide input on incident management policies.

# Access Rule and Ohio's MUI System

## **Aligning Ohio's MUI System with CMS Access Rule**

- Enhances quality of care, health and safety.
- Protects individual rights.
- Provides consistency across programs.
- Improves transparency and accountability.
- Ensures compliance.

[CMS Access Rule Timeline of Implementation](#)

# MUI Rule 5123-17-02

Proposed Amendment 11/14/24

# Overview of MUI Rule Changes

## Just Culture:

Just Culture is a system of shared accountability in which organizations are responsible for the systems they have designed and for responding to the behaviors of their employees in a fair and just manner. Employees are accountable for the quality of their choices and for reporting incidents and system vulnerabilities.

The new MUI rule incorporates the spirit of Just Culture in its “Purpose” statement by adding the following:

***“The intent of the system is to create a culture that fosters trust through open communication, universal accountability, learning, and fair treatment of all persons involved.”***

# Overview of MUI Rule Changes

## Unexpected or Unanticipated Death

Removes the term **"Accidental or Suspicious Death"**.

Replaces with **"Unexpected or Unanticipated Death"**.

## Emotional Abuse

Removes the term, **"Verbal Abuse"**.

Replaces with **"Emotional Abuse"**.

**Emotional Abuse** is defined as the use of actions, words, gestures, or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual or a pattern of behavior that creates a hostile environment.

The updated terminology reflects wording in the Access Rule.

# Overview of MUI Rule Changes

## Failure to Report

Updated “Failure to Report” definition:

“A developmental disabilities employee does not immediately report the alleged, suspected, or actual occurrence of an individual suffering or facing a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse, neglect, misappropriation, or exploitation to the agency provider, county board, or department.”

# Overview of MUI Rule Changes

## Program Implementation Incident

Updated “Program Implementation Incident” definition:

“An unusual incident involving the failure to carry out a person-centered plan when such failure causes minimal risk or no risk. Examples include, but are not limited to, failing to provide supervision for short periods of time, automobile accidents without harm, **an individual’s whereabouts are unknown for longer than the period of time specified in the individual service plan that does not result in imminent risk of harm to self or others,** and self-reported incidents with minimal risk.”

# Overview of MUI Rule Changes

## Systems Issue

Updated “Systems Issue” definition:

“Underlying circumstances (such as the physical environment, staffing levels, training provided to staff or supervisors, supervisory support for staff, previous awareness of a potential event, adequacy of process and procedures, or availability of resources and equipment) beyond the action or inaction of the primary person involved in a substantiated major unusual incident of neglect, that contributed to the situation or outcome.”

# Overview of MUI Rule Changes

## Administrative Investigation

### Category A Category B

The number of Administrative Investigation categories has been reduced from 3 to 2, removing Category C from the “Administrative Investigation” section.

## Administrative Review

### Category C

Introduces new process for administrative review and new forms (Appendix C, D, and E) that will be submitted by an individual’s provider and completed by an investigative agent in collaboration with the individual’s team.

# Overview of MUI Rule Changes

## Administrative Investigation

### Category A Incidents

- Unexpected or Unanticipated Death
- Emotional Abuse
- Exploitation
- Failure to Report
- Misappropriation
- Neglect
- Physical Abuse
- Prohibited Sexual Relations
- Rights Code Violation
- Sexual Abuse

Media Inquiry

# Overview of MUI Rule Changes

## Administrative Investigation Categories

### Category B Incidents

- Attempted Suicide
- Death other than Unexpected or Unanticipated
- Medical Emergency
- Missing Individual
- Significant Injury
- Peer-to-Peer

# Overview of MUI Rule Changes

## Administrative Review

### Category C Incidents

Law Enforcement  
Unanticipated Hospitalization  
Unapproved Behavioral Support

# Overview of MUI Rule Changes

## Administrative Review Forms

Introduces new administrative review forms:

### Appendix C

Law Enforcement

### Appendix D

Unanticipated Hospitalization

### Appendix E

Unapproved Behavioral Support

# Overview of MUI Rule Changes

## Unanticipated Hospitalization

Any hospital admission over 48 hours that:

Is not associated with planned evaluations, scheduled procedures, or routine diagnostic tests that are part of ongoing medical care, including the diagnosis of conditions; and

Is due to one or more of the following diagnoses or events:

**Aspiration pneumonia;  
Bowel obstruction;  
Dehydration;  
Medication error;  
Seizure; or  
Sepsis**

A hospital re-admission lasting 48 hours or longer that:

Is not associated with planned evaluations, scheduled procedures, or routine diagnostic tests that are part of ongoing medical care, including the diagnosis of conditions; and

Is due to any diagnosis that is the same diagnosis as a prior hospital admission lasting forty-eight hours or longer within the past 30 calendar days.

# Overview of MUI Rule Changes

## Substantiation Standards

Updated the substantiation standards for Category A administrative investigations, detailing the **“preponderance of evidence”** standard and defining “substantiated, unsubstantiated/insufficient evidence, and unsubstantiated/unfounded”.

## Incident Specific Requirements

Added incident-specific requirements for various Category A incidents including **unexpected or unanticipated death, exploitation, misappropriation, failure to report, neglect, physical abuse, prohibited sexual relations, rights code violations, sexual abuse, and verbal emotional abuse.**

Added incident-specific requirements for Category B incident of **attempted suicide.**

# Overview of MUI Rule Changes

## Notification Requirements

The timeframe for notifying senior management of an agency provider about MUIs involving **misappropriation, neglect, physical abuse, or sexual abuse** has been reduced from 2 working days to 1 working day.

## Review and Closure of Reports

Details criteria and procedures for closing MUIs, including the roles of the department and county boards in ensuring compliance and proper closure of cases.

# Overview of MUI Rule Changes

## **Quarterly and Annual Reports**

Specified new requirements for agency providers to conduct annual reviews and analyses of trends and patterns in MUIs, including specific data points and reporting requirements.

## **Procedure for Removal of Employees**

Added section outlining the procedure for removing developmental disabilities employees from direct contact during investigations of physical or sexual abuse. Specifies employer notification and communication requirements for the employee involved in an investigation.

# Overview of MUI Rule Changes

## Agency Board Member Training

**Board members** of an agency provider must be trained on the requirements of the MUI Rule no later than **ninety calendar days** from the date of appointment to the board or hire.

Additionally, they must receive **annual training** on the MUI Rule. The training should also include a review of health and welfare alerts issued by the department since the previous year's training.

# Final Clearance

## 5123-17-02

- Rule will go through the Final Clearance process.
- Business Impact Analysis (BIA) completed prior to rule being released.
- The rule will be sent out to stakeholder groups for comment.
- Rule will go before the Joint Committee on Agency Rule Review (JCARR).
- OPRA will seek member input and comment during each phase of this process.

# Questions, Comments, Concerns?

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