



Ohio Administrative Code

Rule 5123-14-01 Preadmission screening and resident review for nursing facility applicants and nursing facility residents with developmental disabilities.

Effective: November 19, 2020

(A) Purpose

This rule sets 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 or eligible to continue to receive services in a nursing facility.

(B) Scope

This rule applies to individuals who are seeking admission to a nursing facility who have indications of developmental disabilities, individuals who are residents of a nursing facility who have indications of developmental disabilities, and persons acting on behalf of these applicants or residents. This rule does not apply to individuals seeking readmission to a nursing facility after having transferred from a nursing facility to a hospital for care nor to individuals transferring from one nursing facility to another nursing facility, with or without an intervening hospital stay.

(C) Definitions

For the purposes of this rule, the following definitions shall apply:

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

(a) An assessment of the individual conducted in person, by video conference, or by telephone 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 or her practice:



- (i) Physician;
 - (ii) Registered nurse;
 - (iii) A person who holds a master of science in nursing degree;
 - (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;
 - (x) Psychologist;
 - (xi) Qualified intellectual disability professional; or
 - (xii) Service and support administrator.
- (b) Authorized personnel from the department and/or the Ohio department of mental health and addiction services, other than the personnel identified in paragraph (C)(1)(a) of this rule who conducted the assessment, have reviewed the assessment and made the final determination regarding the need for nursing facility services and specialized services for developmental disabilities and/or specialized services for serious mental illness.
- (2) "Business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.



(3) "Categorical determination" means a preadmission screening determination which may be made for an individual with developmental disabilities and/or serious mental illness without first completing a full level II evaluation for developmental disabilities and/or level II evaluation for serious mental illness 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 rule 5160-3-15 of the Administrative Code; or

(b) The individual is seeking admission to a nursing facility for a respite nursing facility stay, as defined in rule 5160-3-15 of the Administrative Code.

(4) "County board" means a county board of developmental disabilities.

(5) "Department" means the Ohio department of developmental disabilities.

(6) "Developmental disabilities" means:

(a) A condition described in the American association on intellectual and developmental disabilities publication, "Intellectual Disability: Definition, Classification, and Systems of Supports" (eleventh edition, 2009); or

(b) A related condition which means a developmental disability as defined in section 5123.01 of the Revised Code or 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 an intellectual disability because it results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with intellectual disability, 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).

(7) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(8) "Hospital discharge exemption" means an exemption from preadmission screening for a new admission, as defined in rule 5160-3-15 of the Administrative Code, to a nursing facility. The discharging hospital shall request a hospital discharge exemption via the electronic system approved by the Ohio department of medicaid.

(9) "Individual" means a person who is seeking admission, readmission, or transfer to a nursing facility, or who resides in a nursing facility.

(10) "Level I screening" means the process by which the Ohio department of medicaid or its designee screens individuals who are seeking new admissions to identify those who have indications of developmental disabilities or serious mental illness, and who, therefore, shall be further evaluated by the department and/or the Ohio department of mental health and addiction services.



(11) "Level II evaluation for developmental disabilities" means the process by which the department determines:

(a) Whether, due to the individual's physical and mental condition, an individual who has developmental disabilities 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 developmental disabilities.

(12) "Level II evaluation for serious mental illness" means the process by which the Ohio department of mental health and addiction services determines:

(a) Whether, due to the individual's physical and mental condition, an individual who has serious mental illness 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 serious mental illness.

(13) "Nursing facility" has the same meaning as in section 5165.01 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.

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

(15) "Preadmission screening" means the preadmission portion of the preadmission screening and resident review requirements mandated by section 1919(e)(7) of the Social Security Act, as in effect on the effective date of this rule, which shall be implemented in accordance with this rule and rules 5160-3-15.1 and 5122-21-03 of the Administrative Code.



(16) "Psychiatric hospital" means:

(a) A hospital that the Ohio department of mental health and addiction services maintains, operates, manages, and governs pursuant to section 5119.14 of the Revised Code for the care and treatment of persons with mental illness; or

(b) A free-standing hospital or unit of a hospital, licensed by the Ohio department of mental health and addiction services pursuant to section 5119.33 of the Revised Code; or

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

(17) "Resident review" means the resident review portion of the preadmission screening and resident review requirements mandated by section 1919(e)(7) of the Social Security Act, as in effect on the effective date of this rule, which shall be implemented in accordance with this rule and rules 5160-3-15.2 and 5122-21-03 of the Administrative Code.

(18) "Resident review for developmental disabilities" 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 resident review, and who has developmental disabilities, requires the level of services provided by a nursing facility or another type of setting and whether the individual requires specialized services for developmental disabilities.

(19) "Ruled out" means that an individual has been determined not to be subject to further review by the department or the Ohio department of mental health and addiction services. An individual may be ruled out at any point in the preadmission screening and resident review process if the department or the Ohio department of mental health and addiction services finds that the individual being evaluated:

(a) Does not have developmental disabilities or serious mental illness; or

(b) Has a primary diagnosis of dementia (including Alzheimer's disease or a related disorder) which is not acute or due to another medical condition; or



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

(20) "Serious mental illness" has the same meaning as in rule 5122-21-03 of the Administrative Code.

(21) "Specialized services for developmental disabilities" means the services or supports identified through the level II evaluation for developmental disabilities or the resident review for developmental disabilities. Specialized services for developmental disabilities shall be provided or arranged by the county board. Individuals determined through the processes set forth in this rule to require specialized services for developmental disabilities shall not be placed on a waiting list for such services. Specialized services for developmental disabilities shall be:

(a) Individualized;

(b) Based on person-centered assessment, rather than determined categorically based on disability or diagnosis;

(c) Made available at the frequency and intensity required to address the individual's specific needs in each of the areas of major life activity (i.e., self-care, understanding and use of language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency) for which functional limitations have been identified; and

(d) Unique services that support the individual's independence or reintegration to the community from an institutional setting (e.g., behavioral support) not otherwise available through the routine, rehabilitative services provided by the nursing facility.

(D) Referral for level II evaluation for developmental disabilities

(1) After completion of the level I screening, the Ohio department of medicaid or its designee shall forward a request for a level II evaluation for developmental disabilities for an individual who has indications of developmental disabilities to the department.



(a) The department shall complete the level II evaluation for developmental disabilities and make a determination regarding:

(i) A request for an individual relocating from outside of Ohio who is not an Ohio resident; or

(ii) A request for a categorical determination.

(b) The department shall forward requests other than those described in paragraph (D)(1)(a) of this rule to the county board of the county in which the request is initiated. When the county in which the request is initiated is not the county in which the individual resides and/or the county in which the nursing facility is located, the department shall notify the county board of the county in which the individual resides and the county board of the county in which the nursing facility is located. The county board of the county in which the request is initiated shall be responsible for completing the review and collaborating with the other county boards to agree on a recommendation.

(2) No one who has indications of developmental disabilities shall move into a nursing facility in Ohio until the level II evaluation for developmental disabilities determination has been made by the department.

(E) Level II evaluation for developmental disabilities conducted by county boards

(1) Within seven business days of receipt of the referral by the department of an individual for a level II evaluation for developmental disabilities, 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 developmental disabilities and whether nursing facility services and specialized services for developmental disabilities are required.

(2) The county board shall be responsible for requesting any information necessary to make the level II evaluation for developmental disabilities 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 level II evaluation for developmental disabilities shall not have a direct or



indirect affiliation with a nursing facility.

- (4) The level II evaluation for developmental disabilities 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) The level II evaluation for developmental disabilities shall be adapted to the cultural background, language, ethnic origin, and means of communication used by the individual being evaluated.
- (6) The level II evaluation for developmental disabilities has three components:
 - (a) Developmental disabilities assessment based on documentation of:
 - (i) The individual's intellectual functioning as measured by a psychologist or other related condition as identified by a physician.
 - (ii) A determination of whether the individual meets developmental disabilities eligibility criteria pursuant to section 5123.01 of the Revised Code.
 - (b) Nursing facility needs assessment based on evaluation of written documentation which shall include:
 - (i) The history and physical examination performed by a registered nurse, a clinical nurse specialist, a certified nurse practitioner, a person registered by the state medical board as a physician assistant pursuant to 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 for developmental disabilities needs assessment.

The county board shall evaluate and recommend whether the individual currently has a need for specialized services for developmental disabilities. The county board shall submit, via the department's web-based assessment center, the recommendation, the type of specialized services for developmental disabilities to be provided, and who will provide the specialized services for developmental disabilities. When a determination is made to admit or allow to remain in a nursing facility an individual who requires specialized services for developmental disabilities, the determination shall be supported by assurances that the specialized services for developmental disabilities will be provided while the individual resides in the nursing facility.

(7) If the individual does not meet developmental disabilities 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 developmental disabilities and whether nursing facility services and specialized services for developmental disabilities 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 nursing facility services are recommended, identify the services which are required to meet the



evaluated individual's needs;

(d) Identify whether specialized services for developmental disabilities 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 two business days of receipt of the county board's recommendations and documentation, the department shall determine:

(a) Whether the individual has developmental disabilities.

(b) Whether the individual requires the level of services provided by a nursing facility 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 that can be delivered in the nursing facility.

(c) Whether the individual requires specialized services for developmental disabilities.

(11) The department shall issue a determination in the form of a written report in accordance with paragraph (J) of this rule.

(12) One of two outcomes of the level II evaluation for developmental disabilities review is possible:

(a) The individual requires the level of services provided by a nursing facility and therefore may be admitted to a nursing facility.

(b) The individual does not require the level of services provided by a nursing facility and therefore shall not be admitted to a nursing facility. The county board shall assist the individual and/or his or



her guardian with alternative placement options, services, and resources as may be necessary to ensure the health and welfare of the individual.

(F) Referral for categorical determination

(1) The Ohio department of medicaid or its designee shall refer a request for a categorical determination made by or on behalf of an individual with developmental disabilities to the department.

(2) The department shall make a categorical determination that an individual requires the level of services provided by a nursing facility when:

(a) The individual is seeking admission to a nursing facility that is not to exceed a seven-day stay, pending further assessment in emergency situations requiring protective services, and such placement occurs within twenty-four hours from the date of the categorical determination or immediately following discharge from a hospital setting; or

(b) Within the next sixty days, the individual is seeking admission to a nursing facility for up to fourteen days of respite for the caregiver and plans to return to the caregiver at the end of the nursing facility stay.

(3) The department shall issue a determination in the form of a written report in accordance with paragraph (J) 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, nursing facility services, including 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 nursing facility, shall not receive specialized services for developmental disabilities.

(G) Level II evaluation for developmental disabilities for individuals being directly admitted to a nursing facility from a psychiatric hospital

(1) The department or its designee shall complete a written evaluative report regarding:

(a) Whether the individual has developmental disabilities;

(b) Whether the individual requires the level of services provided by a nursing facility 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 that can be delivered in a nursing facility; and

(c) Whether the individual requires specialized services for developmental disabilities.

(2) The department shall issue a determination in the form of a written report in accordance with paragraph (J) of this rule.

(H) Resident review for developmental disabilities

(1) The nursing facility shall submit the resident review request to the department in accordance with rule 5160-3-15.2 of the Administrative Code.

(2) Upon receipt of the resident review request, the department shall notify the county board.

(3) Within seven business 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 two business days of receipt of the county board's recommendations and documentation, the department shall determine whether the individual has developmental disabilities, whether the individual requires the level of services provided by a nursing facility, and whether the individual requires specialized services for developmental disabilities in accordance with the process set forth in paragraphs (E)(9) to (E)(11) of this rule.

(5) Possible outcomes of the resident review for developmental disabilities include:

(a) A nursing facility resident with developmental disabilities who is determined to require the level of services provided by a nursing facility may continue to reside in the nursing facility.

(b) A nursing facility resident with developmental disabilities who has resided in a nursing facility for thirty months or longer who is determined not to require the level of services provided by a nursing facility, but does require specialized services for developmental disabilities, may choose to continue to reside in the nursing facility 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 nursing facility, the department shall clarify the effect on eligibility for services under the state plan for medical assistance, including its effect on readmission to the nursing facility. Wherever the resident chooses to reside, the county board shall meet the resident's needs for specialized services for developmental disabilities as identified in the individual's service plan.

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

(d) A nursing facility resident with developmental disabilities who has resided in a nursing facility for less than thirty months who is determined not to require the level of services provided by a nursing facility shall be discharged. The county board, in conjunction with the nursing facility, shall arrange



for a safe and orderly discharge to an appropriate setting.

(I) Coordination with the Ohio department of mental health and addiction services

The department shall coordinate with the Ohio department of mental health and addiction services on determinations for individuals who are subject to both level II evaluation for developmental disabilities or resident review for developmental disabilities and level II evaluation for serious mental illness or resident review for serious mental illness.

(J) Notification of determination of level II evaluation for developmental disabilities or resident review for developmental disabilities

(1) The department shall prepare a written report which includes:

(a) The determination as to whether the individual has developmental disabilities;

(b) The determination as to whether the individual requires the level of services provided by a nursing facility;

(c) The determination as to whether the individual requires specialized services for developmental disabilities that shall be 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;

(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 (L) of this rule.

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



- (a) The evaluated individual and when applicable, his or her guardian;
 - (b) The individual's attending physician;
 - (c) The admitting or retaining nursing facility for inclusion in the individual's medical record;
 - (d) The discharging hospital if the individual is seeking nursing facility admission from a hospital;
 - (e) The county board where the individual resides and when applicable, the county board where the nursing facility is located; and
 - (f) In the case of a resident review adverse determination, the Ohio department of medicaid.
- (3) The department shall document all determinations in the individual's file which shall be maintained at the department.
- (K) Hospital discharge exemption
- (1) Upon notification from the Ohio department of medicaid or its designee of a nursing facility admission based on a hospital discharge exemption, the department shall begin to monitor the admission in accordance with rule 5160-3-15.1 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 nursing facility is located.
 - (3) The department may contact the nursing facility prior to the thirtieth day of the individual's stay to assess the need for a resident review.
 - (4) If the nursing facility indicates that the individual may need more than a thirty-day stay, the department shall request that the nursing facility initiate the resident review process.

(L) Appeals



- (1) The individual or the individual's guardian may appeal adverse determinations made by the department within ninety calendar days of the date of determination by filing an appeal with the Ohio department of medicaid 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 level II evaluation for developmental disabilities or resident review for developmental disabilities and level II evaluation for serious mental illness or resident review for serious mental illness, the informal reconsideration and appeal shall be conducted jointly by the department and the Ohio department of mental health and addiction services.