



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Medicaid

Rule Contact Name and Contact Information: Tommi Potter Rules@medicaid.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Specialized Services Recovery Peer Service

Rule Number(s): 5160-43-04, 5160-43-05, 5160-43-09

Date of Submission for CSI Review: 5/23/2024

Public Comment Period End Date: 5/30/2024

Rule Type/Number of Rules:

New/    rules

No Change/    rules (FYR?   )

Amended/ 3 rules (FYR? No)

Rescinded/    rules (FYR?   )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c.  Requires specific expenditures or the report of information as a condition of compliance.
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

**Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

5160-43-04 entitled “Specialized recovery services program covered services and provider requirements.” This rule describes the covered services for an individual enrolled in specialized recovery services. Amendments include the removal of allowable and not allowable peer activities as well as peer provider requirements.

5160-43-05 entitled “Specialized recovery services program provider conditions of participation.” This rule states the responsibilities and requirements providers must meet in order to participate in the specialized recovery services program. Amendments include updated CFR references in the rule.

5160-43-09 entitled “Specialized recovery services program criminal records checks for providers. This rule provides the process and requirements for criminal background checks for home and community-based services including peer recovery support providers and provides definitions pertaining to language throughout this rule. Amendments include the removal of peer recovery support providers as they will no longer be an SRSP service since being added as a state plan service to prevent/eliminate duplication.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

5160-43-04 Authorized by 5164.02

5160-43-04 Amplified by 5164.02, 5164.03

5160-43-05 Authorized by 5164.02

5160-43-05 Amplified by 5164.02, 5164.03

5160-43-09 Authorized by 5164.02

5160-43-09 Amplified by 5164.02, 5164.03

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

No.

**5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

**6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

Rule 5160-43-04 requires certification of providers of specific services which supports the provision of appropriate, quality services that are medically necessary.

Rule 5160-43-05 requires providers participating in the specialized recovery services program to render services in a person-centered manner and be attentive to the individual's needs.

Rule 5160-43-09 requires criminal record checks for providers participating in the specialized recovery services program. This rule helps protect the safety of Medicaid individuals receiving services through this program.

Removal of references to the peer support service, via rule amendment, in two rules is necessary as peer support service will no longer be a component of the specialized recovery services program. This is because peer support service will become, through enactment of a new rule, a general Medicaid covered service that will be available to a larger number of individuals in need of the service.

**7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Success will be achieved if providers are appropriately screened for a criminal history and that Medicaid individuals participating in the program receive quality services that are medically necessary and meet their needs.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

## **Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

A public comment period was held for the rules during the period April 20, 2024 to April 26, 2024. The only comment received was from the Ohio Council of Behavioral Health & Family Services Providers (Ohio Council).

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The Ohio council supports the rule revisions and stated that the changes would support wider access to this critical recovery service (peer support). As no suggestions were made for revisions, and the comment was positive, no changes were made in the rules.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

No scientific data was used to develop this Medicaid policy.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

No other alternative regulations were considered. ODM considers administrative rules the most appropriate method to codify these rules.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The rules were thoroughly reviewed by ODM legal and legislative staff, and other policy areas to ensure it does not duplicate an existing Ohio regulation.

**14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The processes (Medicaid IT system, provider enrollment and support staff) are in place to implement and apply the requirements and regulations which are currently in place.

## **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

The impacted business community includes any Medicaid behavioral health provider that currently renders specialized recovery services or wishes to in the future.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

5160-34-04:

Recovery managers have to be a registered nurse unless specific options apply. The cost of obtaining a registered nurse degree varies among the different schools that offer the program.

Recovery managers have to hold an active Medicaid provider agreement or be employed by an entity that has an active agreement. There is no financial cost for an individual to apply for or hold a Medicaid provider agreement.

Provider agencies that wish to render supported employment as part of the Specialized Recovery Services program are required to be certified by the Ohio Department of Mental Health and Addiction Services. Rule 5122-28-08 states the fee requirements, a minimum fee is \$1000.

There may be a time cost for providers to prepare and submit certain information which is required to be reported.

5160-43-05:

Specialized recovery service providers have to hold an active Medicaid provider agreement. There is no financial cost for an individual to apply for or hold a Medicaid provider agreement.

Failure to meet the requirements in the rule could result in a provider having their Medicaid provider agreement terminated. Loss of the agreement could result in the inability of the provider to render services to Medicaid covered individuals.

There may be a time cost for providers to prepare and submit certain information which is required to be reported.

5160-43-09:

A provider agency must pay to the Bureau of Criminal Identification and Investigation the required fee for an applicant to undergo a criminal record check when required. The fee typically runs between \$35 and \$40. In some instances the provider agency may wish to have a FBI check performed which could cost an additional \$35 to \$40.

There may be a time cost for providers to prepare and submit certain information which is required to be reported.

None of the adverse impacts stated are new with this rule filing. All impacts have been in effect for several years.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).**

No.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The requirements in these rules assist in the provision of quality services to individuals participating in the specialized recovery services program and promote safe interactions between provider and individual.

The regulatory intent of these amended rules is justified by the benefit to Medicaid recipients in allowing more individuals to receive peer support due to expanded Medicaid coverage of the service through enactment of a new service rule (not included in this submission) and removal of the service from these rules.

#### **Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There are no alternate means of compliance because this regulation applies to all behavioral health providers wishing to render peer supporter services. No exception can be made based on the organization size.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

These rules do not impose a fine or penalty for first-time paperwork violations.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The Ohio Department of Medicaid website, [www.medicaid.ohio.gov](http://www.medicaid.ohio.gov), has several resources available for providers related to provider support. ODM's Bureau of Provider Services also renders technical assistance to providers through its provider hotline, (800) 686-1516.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

### **5160-43-04 Specialized recovery services program covered services and provider requirements.**

(A) This rule sets forth the covered services available to an individual enrolled in the specialized recovery services program (SRSP) and the requirements for providers of those services.

(B) Individualized placement and support - supported employment (IPS-SE) is the implementation of evidence-based practices allowing individuals to obtain and maintain meaningful employment by providing training, ongoing individualized support, and skill development to promote recovery. IPS-SE is an evidence based practice which is integrated and coordinated with mental health treatment and rehabilitation designed to provide individualized placement and support to assist individuals with a severe and persistent mental illness obtain, maintain, and advance within competitive community integrated employment positions.

(1) IPS-SE activities include:

- (a) Benefits planning;
- (b) Development of a vocational plan;
- (c) General consultation, including advocacy and building and maintaining relationships with employers;
- (d) Individualized job supports, including regular contact with the individual's employer(s), family members, guardians, advocates, treatment providers, and other community supports;
- (e) Job coaching;
- (f) Job development and placement;
- (g) Job seeking skills training;
- (h) On-the-job training and skill development;
- (i) Vocational rehabilitation guidance and counseling;
- (j) Time unlimited vocational support; and
- (k) Vocational assessment.

(2) IPS-SE activities may include the following when provided in conjunction with an IPS-SE activity listed in paragraph (B)(1) of this rule:

- (a) Facilitation of natural supports; and/or
- ~~(b)~~ (b) ~~Peer services;~~ and/or
- ~~(e)~~ (b) Transportation.

(3) The following activities are not payable under IPS-SE:

- (a) Adaptations, assistance and training used to meet the employer's responsibility to fulfill requirements for reasonable accommodations under the Americans with Disabilities Act, 42 U.S.C. 12101 et. seq. ~~(as in effect on January 1, 2021January 1, 2024)~~;
- (b) Job placements paying below minimum wage;

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (c) Supervision, training, support and adaptations typically available to the general workforce filling similar positions in the business;
- (d) Supervisory activities rendered as the normal part of business setting;
- (e) Unpaid internships, unless they are considered crucial for job placement and such experience is vital to the individual achieving his or her vocational goal(s);
- (f) Services which are not provided in integrated settings including sheltered work or other types of vocational services in specialized facilities, or incentive payments, subsidies, or unrelated vocational training expenses such as the following:
  - (i) Incentive payments made to an employer to encourage hiring the individual;
  - (ii) Payments that are passed through to the individual; or
  - (iii) Payments for supervision, training, support and adaptations typically available to other workers without disabilities filling similar positions in the business; or payments used to defray the expenses associated with starting up or operating a business.

(4) To be a provider and submit a claim for payment of IPS-SE services, the provider delivering the service must meet all of the following requirements:

- (a) Comply with all rules set forth in this chapter and Chapter 5160-27 of the Administrative Code;
- (b) Request payment for the provision of services in accordance with rule 5160-27-03 of the Administrative Code;
- (c) Be certified by the Ohio department of mental health and addiction services (OhioMHAS) under section 5119.36 of the Revised Code;
- (d) Not be the individual's legally responsible family member, as defined in rule 5160-43-01 of the Administrative Code;
- (e) Be identified as the provider and have specified on the individual's person-centered service plan, that is prior approved by the Ohio department of medicaid (ODM) or its designee, the number of hours the provider is authorized to furnish program services to the individual;
- (f) Provide services that are supported by an identified need or recovery goal in a manner that supports and respects the individual's communication needs including translation services, and/or assistance with communication devices; and
- (g) Not provide IPS-SE services simultaneously with other rehabilitation services available under the medicaid state plan.

(5) IPS-SE providers must maintain a record for each individual served in a manner that protects the confidentiality of those records. At a minimum, the record must contain:

- (a) A copy of the current person-centered service plan;
- (b) Documentation of each service interaction including the duration IPS-SE was provided; and

# \*\*\*DRAFT - NOT FOR FILING\*\*\*

(c) Documentation that the service is not available under a program funded under section 110 of the Rehabilitation Act of 1973, 29 U.S.C. 701 et. seq. (~~July 1, 2017~~July 1, 2023), relating to vocational rehabilitation services, or the Individuals with Disabilities Education Act (1990), set forth in 20 U.S.C. section 1400 et. seq. (~~as in effect on January 1, 2021~~January 1, 2024), relating to special education.

~~(C) Peer recovery support provides community based supports to an individual with a mental illness with individualized activities that promote recovery, self determination, self advocacy, well-being and independence through a relationship that supports the person's ability to promote his or her own recovery. Peer recovery supporters use their own experiences with mental illness to help individuals reach their recovery goals.~~

~~(1) Peer recovery support activities include:~~

- ~~(a) Assisting the individual with accessing and developing natural support systems in the community;~~
- ~~(b) Attending and participating in care team meetings;~~
- ~~(c) Conducting outreach to connect individuals with resources;~~
- ~~(d) Coordinating and/or assisting in crisis interventions and stabilization as needed;~~
- ~~(e) Developing and working toward achievement of the individual's personal recovery goals;~~
- ~~(f) Facilitating development of daily living skills;~~
- ~~(g) Modeling personal responsibility for recovery;~~
- ~~(h) Promoting coordination among similar providers;~~
- ~~(i) Providing group facilitation that addresses symptoms, behaviors, and thought processes to assist an individual in eliminating barriers to seeking and maintaining recovery, employment, education, and housing;~~
- ~~(j) Supporting individuals in achieving personal independence as identified by the individual; and~~
- ~~(k) Teaching skills to effectively navigate the health care delivery system to utilize services.~~

~~(2) The following activities are not payable under peer recovery support:~~

- ~~(a) Assistance with activities of daily living as defined in rule 5160-3-05 of the Administrative Code;~~
- ~~(b) Management of medications; and~~
- ~~(c) Performance of activities covered under other services.~~

~~(3) To be a provider and submit a claim for payment of peer recovery support services, the provider delivering the service must meet all of the following requirements:~~

- ~~(a) Comply with all rules set forth in this chapter and Chapter 5160-27 of the Administrative Code;~~
- ~~(b) Request payment for the provision of services in accordance with rule 5160-27-03 of the~~

# \*\*\*DRAFT - NOT FOR FILING\*\*\*

Administrative Code;

- (c) Be certified by OhioMHAS under section 5119.36 of the Revised Code;
- (d) Not be the individual's legally responsible family member, as defined in rule 5160-43-01 of the Administrative Code;
- (e) Be identified as the provider and have specified on the individual's person-centered service plan, that is prior approved by ODM or its designee, the number of hours the provider is authorized to furnish services to the individual;
- (f) Provide services that are supported by an identified need or recovery goal in a manner that supports and respects the individual's communication needs including translation services, and/or assistance with communication devices;
- (g) Not provide peer recovery support activities simultaneously with other rehabilitation services available under the state plan; and
- (h) Be supervised by other senior peers or non-peer staff that have been certified to supervise peers and receive regularly scheduled clinical supervision from a person meeting the qualifications of a behavioral health professional with experience regarding this specialized behavioral health service.

(4) All peer recovery support providers must maintain a record for each individual served in a manner that protects the confidentiality of those records. At a minimum, the record must contain:

- (a) A copy of the current person-centered service plan;
- (b) Documentation of each service interaction including the duration peer recovery support was provided; and
- (c) Documentation that the service is not available under a program funded under section 110 of the Rehabilitation Act of 1973, relating to vocational rehabilitation services, or the Individuals with Disabilities Education Act (1990) set forth in 20 U.S.C. section 1400 et. seq. (as in effect on February 1, 2016), relating to special education.

(D) (C) Recovery management is the coordination of all SRSP services received by an individual and assisting him or her in gaining access to needed medicaid services, as well as medical, social, educational, and other resources, regardless of funding source.

(1) Recovery managers shall:

- (a) Be a registered nurse, or hold at least a bachelor's degree in social work, counseling, psychology, or related field;
- (b) Have a minimum of three years post degree experience working with individuals with severe and persistent mental illness or have a minimum of one year post degree experience working with individuals with diagnosed chronic conditions;
- (c) Possess an active medicaid provider agreement or be employed by an entity that has an active medicaid provider agreement;
- (d) Demonstrate knowledge of issues affecting people with severe and persistent mental illness (SPMI) or

## \*\*\*DRAFT - NOT FOR FILING\*\*\*

diagnosed chronic conditions (DCC) and community-based interventions/resources for those individuals;

(e) Attend training activities including, but not limited to:

- (i) Person-centered service planning;
- (ii) Administering the "Adult Needs and Strengths Assessment (ANSA)" (8/2021);
- (iii) Home and community-based services (HCBS) settings;
- (iv) "Health Insurance Portability and Accountability Act of 1996" (HIPAA) regulations set forth in 45 C.F.R. parts 160 and 164 (~~as in effect on October 1, 2020~~October 1, 2023);
- (v) 42 C.F.R. part 2 (~~as in effect on October 1, 2020~~October 1, 2023), confidentiality of alcohol and drug abuse patient records; and
- (vi) Incident management as described in rule 5160-44-05 of the Administrative Code.

(f) Be supervised by clinical staff who possess a current, valid and unrestricted license with the appropriate licensure board from the fields of nursing, social work, psychology, or psychiatry.

(2) Recovery management activities include:

(a) Face-to-face eligibility evaluation, including:

- (i) Administration of the "ANSA" (8/2021);
- (ii) Verification of the individual's residence in an HCBS setting;
- (iii) Verification of the individual's qualifying behavioral health diagnoses or diagnosed chronic conditions as described in the qualifying diagnosis appendix which is available on the ODM website at <https://medicaid.ohio.gov/resources-for-providers/special-programs-and-initiatives/srs>; and
- (iv) Evaluation of all other eligibility criteria as described in paragraph (A) of rule 5160-43-02 of the Administrative Code.
- (v) At the discretion of ODM or its designee, evaluations may be conducted by video conference or telephonically ~~in lieu of face-to-face~~ at the request of the individual, unless the individual's needs require a face-to-face visit.

(b) Person-centered care planning and updating the individual's service plan;

(c) Facilitation of transitioning to the community for individuals who receive medicaid-funded institutional services. Recovery management activities for individuals leaving institutions shall be coordinated with, and shall not duplicate, institutional, mycare and managed care plan discharge planning, and other community resources.

(d) Informing the individual about SRSP services, person centered planning, resources for recovery, and individual rights and responsibilities;

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (e) Supporting the review and approval of the individual's person-centered service plan in accordance with rule 5160-44-02 of the Administrative Code;
- (f) Monitoring the individual's service plan;
- (g) Identifying and resolving issues that impede access to needed SRSP services;
- (h) Identifying resources in the person-centered service plan to support the individual's recovery goals, including non-HCBS medicaid, medicare, private insurance, and community resources;
- (i) Coordinating with other service providers and systems;
- (j) Assisting with accessing resources necessary to complete medicaid redetermination and retain HCBS and medicaid eligibility;
- (k) Responding to and assessing emergency situations and incidents and assuring that appropriate actions are taken to protect the health, welfare, wellness, and safety of the individual in accordance with rule 5160-44-05 of the Administrative Code and assist in meeting the needs of the individual in those situations;
- (l) Evaluating the individual's progress in meeting his or her goals;
- (m) Participating in quality oversight activities and reporting activities as described in rule 5160-43-07 of the Administrative Code;
- (n) Participating in case consultations regarding an individual's progress with a trans-disciplinary care team, as defined in rule 5160-43-01 of the Administrative Code. When an individual is assigned to or enrolled in a comprehensive care management program operated by an accountable entity (e.g. patient centered medical home or managed care plan), the recovery manager will support access to the individual's full set of medicaid and medicare benefits and community resources across the continuum of care, including behavioral, medical, LTSS and social services;
- (o) Updating the assessment at least annually, making revisions to the individual's service plan, and making recommendations to the accountable care management entity, as appropriate;
- (p) Educating the individual about hearing and appeal rights; and
- (q) Assisting the individual with preparing and submitting a hearing request, as needed.

(3) Recovery management activities do not include:

- (a) Travel time incurred by the recovery manager billed as a discrete unit of service;
- (b) Services that constitute the administration of another program such as child welfare, child protective services, foster care, parole and probation functions, legal services, public guardianship, and special education;
- (c) Representative payee functions; and
- (d) Other activities identified by ODM.

(4) To be a provider and submit a claim for payment of recovery management services, the provider

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

delivering the service shall meet all of the following requirements:

- (a) Comply with all rules set forth in this chapter of the Administrative Code;
- (b) Request payment for the provision of services in accordance with rule 5160-43-08 of the Administrative Code;
- (c) Not be the individual's legally responsible family member;
- (d) Be identified as the provider and have specified on the individual's person-centered service plan, that is prior approved by ODM or its designee, the number of hours the provider is authorized to furnish services to the individual;
- (e) Provide services that are supported by an identified need or recovery goal in a manner that supports and respects the individual's communication needs including translation services, and/or assistance with communication devices.

(5) All recovery management activities shall be documented in a record using the process prescribed by ODM for each individual served in a manner that protects the confidentiality of these records. At a minimum, the record shall contain:

- (a) A copy of the current person-centered service plan;
- (b) Documentation of each service interaction including the duration recovery management was provided; and
- (c) Documentation that the service is not available under a program funded under section 110 of the Rehabilitation Act of 1973, 29 U.S.C. 701 et. seq. (~~as in effect on January 1, 2021~~[January 1, 2024](#)) relating to vocational rehabilitation services, or the Individuals with Disabilities Education Act, of 1990 set forth in 20 U.S.C. 1400 et. seq. (~~as in effect on January 1, 2021~~[January 1, 2024](#)), relating to special education.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

### **5160-43-05 Specialized recovery services program provider conditions of participation.**

(A) Specialized recovery service program providers shall maintain professional relationships with the individuals they serve. Providers shall furnish services in a person-centered manner that is in accordance with the individual's approved person-centered service plan, is attentive to the individual's needs and maximizes the individual's independence. Providers shall refrain from any behavior that may detract from the goals, objectives and services outlined in the individual's approved person-centered service plan and/or that may jeopardize the individual's health and welfare.

(B) Specialized recovery services program providers shall:

- (1) Maintain an active, valid medicaid provider agreement as set forth in rule 5160-1-17.2 of the Administrative Code.
- (2) Comply with all applicable provider requirements set forth in this chapter of the Administrative Code, including but not limited to:
  - (a) Provider requirements as set forth in rule 5160-43-04 of the Administrative Code;
  - (b) Incident reporting as set forth in rule 5160-44-05 of the Administrative Code;
  - (c) Provider monitoring, oversight, reviews and investigations as set forth in rule 5160-43-07 of the Administrative Code; and
  - (d) Criminal records checks for providers of home and community-based services (HCBS) as set forth in rule 5160-43-09 of the Administrative Code.
- (3) Deliver services in a person-centered manner, professionally, respectfully and legally.
- (4) Ensure that individuals to whom the provider is furnishing services are protected from abuse, neglect, exploitation and other threats to their health, safety and well-being. Upon entering into a medicaid provider agreement, and annually thereafter, all providers including all employees who have direct contact with individuals enrolled in the program must acknowledge in writing they have reviewed rule 5160-44-05 of the Administrative Code regarding incident management procedures.
- (5) Work with the individual and his or her trans-disciplinary care team to coordinate service delivery, including, but not limited to:
  - (a) Agreeing to provide and providing services in the amount, scope, location and duration they have capacity to provide, and as specified on the individual's approved person-centered service plan.
  - (b) Contacting the individual, the recovery manager and/or his or her supervisor, as applicable, when the provider is unable to render services on the appointed date and time, and verify their receipt of information about the absence.
- (6) To the extent not otherwise required by rule 5160-44-05 of the Administrative Code, notify the Ohio department of medicaid (ODM) or its designee within twenty-four hours when the provider is aware of issues that may affect the individual and/or provider's ability to render services as directed in the individual's person-centered service plan. Issues may include, but are not limited to:
  - (a) The individual consistently declines services,

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (b) The individual plans to or has moved to another residential address,
- (c) There are significant changes in the physical, mental and/or emotional status of the individual,
- (d) There are changes in the individual's environmental conditions,
- (e) The individual's caregiver status has changed causing service delivery to be impacted or interrupted,
- (f) The individual no longer requires medically necessary services as defined in rule 5160-1-01 of the Administrative Code,
- (g) The individual's actions toward the provider are threatening or the provider feels unsafe in the individual's environment,
- (h) The individual's requests conflict with his or her person-centered service plan and may jeopardize his or her health and welfare, and
- (i) Any other situation that affects the individual's health and welfare.

(7) Upon request and within the time frame prescribed in the request, provide information and documentation to ODM, its designee and the centers for medicare and medicaid services (CMS).

(8) Cooperate with ODM and its designee during all provider monitoring and oversight activities by being available to answer questions during reviews, and by ensuring the availability and confidentiality of documentation that may be requested regarding service delivery to individuals.

(9) Participate in all provider trainings mandated or sponsored by ODM or its designees, including but not limited to those set forth in rule 5160-43-04 of the Administrative Code.

(10) Be knowledgeable about and comply with all applicable federal and state laws, including the "Health Insurance Portability and Accountability Act of 1996" (HIPAA) regulations set forth in 45 C.F.R. parts 160 and 164 (~~as in effect on October 1, 2020~~October 1, 2023), confidentiality of alcohol and drug abuse patient records set forth in 42 C.F.R part 2 (~~as in effect on October 1, 2020~~October 1, 2023), and the medicaid safeguarding information requirements set forth in 42 C.F.R. parts 431.300 to 431.307 (~~as in effect on October 1, 2020~~October 1, 2023), along with sections 5160.45 to 5160.481 of the Revised Code.

(11) Ensure that the provider's contact information, including but not limited to address, telephone number, fax number and email address, is current. When contact information changes, the provider shall notify ODM via the medicaid information technology system (MITS) and its designee, no later than seven calendar days after such changes have occurred.

(12) Make arrangements to accept all correspondence sent by ODM or its designee, including certified mail.

(13) Maintain and retain all required documentation related to the services delivered during a visit including but not limited to: an individual-specific description and details of the services provided or not provided in accordance with the person-centered service plan.

(a) Validation of service delivery shall include, but not be limited to, the date and location of service delivery, arrival and departure times and the dated signature of the provider.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

(b) Retain all records of service delivery and billing for a period of six years after the date of receipt of the payment based upon those records, or until any initiated audit is completed, whichever is longer.

(14) Submit written notification to the individual and ODM or its designee at least thirty calendar days before the anticipated last date of service if the provider is terminating the provision of program services to the individual. Exceptions to the thirty-day advance notification requirement include:

(a) A verbal and written notification to the individual and ODM or its designee at least ten days before the anticipated last date of services when the individual:

(i) Has been admitted to a hospital;

(ii) Has entered into an institutional setting; or

(iii) Has been incarcerated.

(b) ODM may waive advance notification for a provider upon request and on a case-by-case basis.

(C) Specialized recovery services program providers shall not:

(1) Engage in any behavior that causes or may cause physical, verbal, mental or emotional abuse or distress to the individual.

(2) Engage in any behavior that may compromise the health and welfare of the individual.

(3) Engage in any behavior that may take advantage of the individual, his or her family, household members or authorized representative, or that may result in a conflict of interest, exploitation or any other advantage for personal gain. This includes but is not limited to:

(a) Misrepresentation;

(b) Accepting, obtaining, attempting to obtain, borrowing, or receiving money or anything of value including but not limited to gifts, tips, credit cards or other items;

(c) Being designated on any financial account including, but not limited to bank accounts and credit cards;

(d) Using real or personal property of another;

(e) Using information of another;

(f) Lending or giving money or anything of value;

(g) Engaging in the sale or purchase of products, services or personal items;

(h) Engaging in any activity that takes advantage of or manipulates specialized recovery services program rules.

(4) Falsify the individual's signature, including copies of the signature.

(5) Make fraudulent, deceptive or misleading statements in the advertising, solicitation, administration or billing of services.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

(6) Submit a claim for program services rendered while the individual is hospitalized, institutionalized, incarcerated, or otherwise residing in a setting that does not meet the HCBS setting requirements set forth in rule 5160-44-01 of the Administrative Code.

(D) While rendering services, specialized recovery services providers shall not:

- (1) Take the individual to the provider's place of residence;
- (2) Bring animals which are not service animals, children, friends, relatives, or any others to the individual's place of residence;
- (3) Provide care to persons other than the individual;
- (4) Smoke without consent of the individual;
- (5) Sleep;

(6) Engage in any distracting activity that is not related to the provision of services which may interfere with service delivery. Such activities include, but are not limited to:

- (a) Using electronic devices for personal or entertainment purposes including, but not limited to watching television, using a computer or playing games;
- (b) Making or receiving personal communications; and
- (c) Engaging in socialization with persons other than the individual.

(7) Deliver services when the provider is medically, physically or emotionally unfit;

(8) Use or be under the influence of the following while providing services:

- (a) Alcohol,
- (b) Illegal drugs,
- (c) Chemical substances, or
- (d) Controlled substances that may adversely affect the provider's ability to furnish services.

(9) Engage in any activity that may reasonably be interpreted as sexual in nature, regardless of whether it is consensual;

(10) Engage in any behavior that may reasonably be interpreted as inappropriate involvement in the individual's personal beliefs or relationships including, but not limited to discussing religion, politics or personal issues; or

(11) Consume the individual's food and/or drink without his or her offer and consent.

(E) Program service providers shall not be designated to serve or make decisions for the individual in any capacity involving a declaration for mental health treatment, general power of attorney, health care power of attorney, financial power of attorney, guardianship pursuant to court order, as an authorized representative, or as a representative payee.

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

(F) Providers shall pay applicable federal, state and local income and employment taxes in compliance with federal, state and local requirements. Federal employment taxes include medicare and social security.

(G) Failure to meet the requirements set forth in this rule may result in any of the actions set forth in rules 5160-44-05 and 5160-43-07 of the Administrative Code including, but not limited to, termination of the medicaid provider agreement in accordance with rule 5160-1-17.6 of the Administrative Code. When ODM proposes termination of the medicaid provider agreement, the provider shall be entitled to a hearing under Chapter 119. of the Revised Code in accordance with Chapter 5160-70 of the Administrative Code.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

### **5160-43-09 Specialized recovery services program criminal records checks for providers.**

(A) This rule sets forth the process and requirements for the criminal records checks of providers of home and community-based services (HCBS) to individuals enrolled in the specialized recovery services program. HCBS include recovery management, ~~peer recovery support~~ and individualized placement and support-supported employment (IPS-SE). This rule only applies to all persons under final consideration for employment with an agency and existing employees in a full-time, part-time or temporary position who are providing HCBS and billing medicaid for these services.

(B) For the purposes of this rule:

- (1) "Agency" means an entity certified by the Ohio department of mental health and addiction services under section 5119.36 of the Revised Code.
- (2) "Chief administrator" means the head of an agency, or his or her designee.
- (3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.
- (4) "Disqualifying offense" means any of the following:
  - (a) A violation of one or more Revised Code section(s) set forth in the appendix to this rule;
  - (b) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is a violation of one of the sections set forth in the appendix to this rule; or
  - (c) A violation of an existing or former municipal ordinance or law of the state of Ohio, any other state or the United States that is substantially equivalent to any of the disqualifying offenses as set forth in paragraphs (B)(4)(a) and (B)(4)(b) of this rule.
- (5) "Employ" means to hire a provider applicant to be an employee as defined in paragraph (B)(6) of this rule.
- (6) "Employee" means a person employed by an agency in a full-time, part-time or temporary position, including conditional employment as described in paragraph (D)(4) of this rule, that involves providing HCBS ~~including peer recovery support and~~ IPS-SE when medicaid is billed for ~~these services~~this service.
- (7) "Provider applicant" means a person who is under final consideration for employment with an agency in a full-time, part-time or temporary position, when the position provides HCBS when medicaid is billed for these services.

(C) No agency shall employ a provider applicant or continue to employ an employee in a position that involves providing HCBS if the provider applicant or employee:

(1) Is included in one or more of the following databases:

- (a) The system for award management (SAM) maintained by the United States general services administration;
- (b) The list of excluded individuals and entities maintained by the office of inspector general in the

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

United States department of health and human services pursuant to 42 U.S.C. part 1320a-7 (as in effect on January 1, 2021) and 42 U.S.C. part 1320c-5 (as in effect on January 1, 2021).

- (c) The Ohio department of developmental disabilities (DODD) online abuser registry established under section 5123.52 of the Revised Code;
- (d) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;
- (e) The internet-based database of inmates established under section 5120.66 of the Revised Code; or
- (f) The state nurse aide registry established under section 3721.32 of the Revised Code, and there is a statement detailing findings by the director of health that the provider applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident.

(2) Fails to:

- (a) Submit to a criminal records check conducted by the bureau of criminal identification and investigation (BCII), including failing to access, complete and forward to the superintendent the form or the standard fingerprint impression sheet; or
- (b) Instruct the superintendent of BCII to submit the completed report of the criminal records check directly to the chief administrator of the agency.

(3) Except as provided for in paragraphs (F) and (G) of this rule, the provider applicant or employee has been convicted of, or pleaded guilty to, a disqualifying offense, regardless of the date of the conviction or date of entry of the guilty plea.

(D) Process for conducting criminal records checks.

- (1) At the time of each provider applicant's initial application for employment in a position that involves providing HCBS for an individual enrolled in the specialized recovery services program, the chief administrator of the agency shall conduct a review of the databases listed in paragraph (C)(1) of this rule to determine whether the agency is prohibited from employing the provider applicant in that position. The chief administrator of the agency shall provide the provider applicant with a copy of any disqualifying information disclosed in the review of the databases.
- (2) Except as otherwise noted in paragraph (C)(1) of this rule, the chief administrator of an agency shall require each provider applicant to request that the BCII superintendent conduct a criminal records check with respect to the provider applicant, and pursuant to section 109.572 of the Revised Code. The provider applicant must provide a set of fingerprint impressions as part of the criminal records check.
  - (a) If a provider applicant does not present proof of having been a resident of the state of Ohio for the five-year period immediately prior to the date the criminal records check is requested, or provide evidence that within that five-year period the superintendent has requested information about the provider applicant from the federal bureau of investigation (FBI) in a criminal records check, the chief administrator shall require the provider applicant to request that the superintendent obtain information from the FBI as part of the criminal records check.
  - (b) Even if a provider applicant presents proof of having been a resident of the state of Ohio for the five-

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

year period, the chief administrator may require the provider applicant to request that the superintendent obtain information from the FBI in the criminal records check.

(3) The chief administrator of an agency shall provide the following to each provider applicant for whom a criminal records check is required by this rule:

(a) Information about accessing, completing and forwarding to the superintendent the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet presented pursuant to division (C)(2) of that section; and

(b) Written notification that the provider applicant is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator of the agency.

(4) Conditional employment.

(a) An agency may conditionally employ a provider applicant for whom a criminal records check is required by this rule prior to obtaining the results of that check, provided that the agency has conducted a review of the databases listed in paragraph (C)(1) of this rule and has determined the agency is not prohibited from employing the provider applicant in that position. The chief administrator must require the provider applicant to request a criminal records check no later than five business days after he or she begins conditional employment.

(b) The agency shall terminate conditional employment if the results of the criminal records check, other than the results of any request for information from the FBI, are not obtained within sixty days of the criminal records check request.

(5) If the results of the criminal records check indicate that the provider applicant has been convicted of, or has pleaded guilty to any of the disqualifying offenses set forth in paragraph (B)(4) of this rule, and regardless of the date of conviction or the date of entry of the guilty plea, then the agency shall either:

(a) Terminate his or her employment; or

(b) Choose to employ the provider applicant because he or she meets the conditions set forth in paragraph (F) of this rule.

(6) If the agency determines that two or more convictions or guilty pleas result from or are connected with the same act or result from offenses committed at the same time, they shall be counted as one conviction or guilty plea.

(7) Termination of employment shall be considered just cause for discharge for the purposes of division (D)(2) of section 4141.29 of the Revised Code if the employee makes any attempt to deceive the agency about his or her criminal record.

(8) An agency shall pay to BCII the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this rule. However, an agency may require a provider applicant to pay to BCII the fee for a criminal records check for the applicant. If the agency pays the fee for a provider applicant, it may charge the provider applicant a fee not exceeding the amount the agency pays to BCII if the agency notifies the provider applicant at the time of application for employment of the amount of the fee and that, unless the fee is paid, he or she will not be considered for employment.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

(9) Reports of any criminal records checks conducted by BCII in accordance with this rule are not public records for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

- (a) The person who is the subject of the criminal records check or their representative;
- (b) The chief administrator of the agency that requires the provider applicant or employee to request the criminal records check or the administrator's representative;
- (c) The director and staff of the Ohio department of medicaid (ODM) who are involved in the administration of the Ohio medicaid program;
- (d) An individual enrolled in the specialized recovery services program who receives, or may receive, HCBS from the person who is the subject of the criminal records check provided that the social security number, address and telephone number have been redacted from the record; and
- (e) Any court, hearing officer or other necessary individual involved in a case dealing with a denial of employment of the provider applicant or termination of the employee; employment or unemployment benefits of the provider applicant or employee; or a civil or criminal action regarding the Ohio medicaid program.

(E) As a condition of continuing to employ an employee in a position that involves providing HCBS, the chief administrator of the agency shall follow the same process set forth in paragraphs (D)(1) to (D)(9) of this rule. The chief administrator:

- (1) Shall conduct a criminal records check of an employee who does not currently have a criminal records check on file with the agency no later than ninety days after August 1, 2021;
- (2) Shall conduct a criminal records check no later than thirty days after each employee anniversary date every five years;
- (3) May conduct a criminal records check on any employee more frequently than every five years without any need to conduct a criminal records check according to the schedules set forth in paragraphs (E)(1) and (E)(2) of this rule.

(F) An agency may choose to employ a provider applicant or continue to employ an employee who has been convicted of, or has pleaded guilty to, a disqualifying offense set forth in paragraph (B)(4) of this rule when the provider applicant or employee has:

- (1) Satisfied the conditions associated with the exclusionary periods set forth in paragraph (G) of this rule; or
- (2) Obtained a certificate of qualification for employment issued by a court of common pleas with competent jurisdiction pursuant to section 2953.25 of the Revised Code, except when the provider applicant or employee has been convicted of or pleaded guilty to a tier I offense as described in paragraph (G)(1) of this rule; or
- (3) Obtained a certificate of achievement and employability in an HCBS-related field, issued by the Ohio department of rehabilitation and corrections pursuant to section 2961.22 of the Revised Code, except when the provider applicant or employee has been convicted of or pleaded guilty to a tier I offense as described in paragraph (G)(1) of this rule; and

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

(4) Agreed, in writing, to have the agency inform each individual enrolled in the specialized recovery services program who may receive services from the provider applicant or employee of the disqualifying offense, and has acknowledged, in writing, that the individual has the right to select or reject to receive services from the provider applicant or employee, prior to commencing service delivery.

(G) An agency may employ a provider applicant or continue to employ an employee who has been convicted of or pleaded guilty to an offense listed in paragraph (B)(4) of this rule in a position providing HCBS to an individual enrolled in the specialized recovery services program pursuant to the following timeframes:

(1) Tier I, permanent exclusion.

(a) No agency shall employ a provider applicant or continue to employ an employee in a position that involves providing HCBS to an individual enrolled in the specialized recovery services program, when any of the following applies:

(i) The provider applicant or employee has been convicted of or pleaded guilty to any tier I offense as listed in the appendix to this rule; or

(ii) The provider applicant or employee has been convicted of or pleaded guilty to an offense in section 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) of the Revised Code in relation to any other tier I offense; or

(iii) The provider applicant or employee has a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the tier I offenses or violations as described in the appendix to this rule.

(b) Tier I permanent exclusion applies when the provider applicant or employee has a conviction related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program, excluding the disqualifying offenses set forth in section 2913.46 of the Revised Code (illegal use of supplemental nutrition assistance program (SNAP) or women, infants, and children (WIC) program benefits) and paragraph (G)(2) of this rule.

(2) Tier II, ten-year exclusionary period.

(a) No agency shall employ a provider applicant or continue to employ an employee in a position that provides HCBS to an individual enrolled in the specialized recovery services program for a period of ten years from the date the provider applicant or employee was fully discharged from all imprisonment, probation or parole, when the following applies:

(i) The provider applicant or employee has been convicted of or pleaded guilty to any tier II offense as listed in the appendix to this rule; or

(ii) The provider applicant or employee has been convicted of or pleaded guilty to an offense in section 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) of the Revised Code in relation to any other tier II offense; or

(iii) The provider applicant or employee has a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the tier II offenses or violations as described in the appendix to this rule.

(b) If a provider applicant or employee has been convicted of multiple disqualifying offenses, including a

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

tier II offense, and another tier II, tier III or tier IV offense or offenses, the provider applicant or employee is subject to a fifteen-year exclusionary period beginning on the date the provider applicant or employee was fully discharged from all imprisonment, probation or parole for the most recent offense.

(3) Tier III, seven-year exclusionary period.

- (a) No agency shall employ a provider applicant or continue to employ an employee in a position that provides HCBS to an individual enrolled in the specialized recovery services program for a period of seven years from the date the provider applicant or employee was fully discharged from all imprisonment, probation or parole, when the following applies:
  - (i) The provider applicant or employee has been convicted of or pleaded guilty to any tier III offense as listed in the appendix to this rule; or
  - (ii) The provider applicant or employee has been convicted of or pleaded guilty to an offense in section 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) of the Revised Code in relation to any other tier III offense; or
  - (iii) The provider applicant or employee has a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the tier III offenses or violations as described in the appendix to this rule.
- (b) If a provider applicant or employee has been convicted of multiple disqualifying offenses, including a tier III offense, and another tier III or tier IV offense or offenses, the provider applicant or employee is subject to a ten-year exclusionary period beginning on the date the provider applicant or employee was fully discharged from all imprisonment, probation or parole for the most recent offense.

(4) Tier IV, five-year exclusionary period.

- (a) No agency shall employ a provider applicant or continue to employ an employee in a position that provides HCBS to an individual enrolled in the specialized recovery services program for a period of five years from the date the provider applicant or employee was fully discharged from all imprisonment, probation or parole, when the following applies:
  - (i) The provider applicant or employee has been convicted of or pleaded guilty to any tier IV offense as listed in the appendix to this rule; or
  - (ii) The provider applicant or employee has been convicted of or pleaded guilty to an offense in section 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity) of the Revised Code in relation to any other tier IV offense;
  - (iii) The provider applicant or employee has a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the tier IV offenses or violations as described in the appendix to this rule.
- (b) If a provider applicant or employee has been convicted of multiple disqualifying tier IV offenses, the provider applicant or employee is subject to a seven-year exclusionary period beginning on the date the provider applicant or employee was fully discharged from all imprisonment, probation or parole for the most recent offense.

## **\*\*\*DRAFT - NOT FOR FILING\*\*\***

(5) Tier V, no exclusionary period.

- (a) An agency may employ a provider applicant or continue to employ an employee in a position that provides HCBS to an individual enrolled in the specialized recovery services program if the provider applicant or employee has been convicted of or pleaded guilty to any tier V offense as listed in the appendix to this rule.
- (b) No exclusionary period applies when the provider applicant or employee has a violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the tier V offenses or violations as described in the appendix to this rule.

(H) Pardons.

- (1) A conviction of, or a plea of guilty to an offense as set forth in paragraph (B)(4) of this rule shall not prevent any agency from considering a provider applicant for employment or an employee for continued employment if the provider applicant or employee has been granted any of the following:
  - (a) An unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;
  - (b) An unconditional pardon for the offense pursuant to an existing or former law of the state of Ohio, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code; or
  - (c) A conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code, and the condition(s) under which the pardon was granted have been satisfied.
- (2) A conviction of, or plea of guilty to an offense as set forth in paragraph (B)(4) of this rule shall not prevent any agency from considering a provider applicant for employment or an employee for continued employment if the provider applicant's or employee's conviction or guilty plea has been set aside pursuant to law.

(I) Documentation of compliance. Each agency shall maintain a roster of provider applicants and employees, accessible by the ODM director or designee, which includes but is not limited to:

- (1) The name of each provider applicant and employee;
- (2) The date the employee started work;
- (3) The date the criminal records check request is submitted to BCII;
- (4) The date the criminal records check is received by the agency; and
- (5) A determination of whether the results of the check revealed that the provider applicant or employee committed a disqualifying offense(s).

## Appendix

### ODM Rule 5160-43-09

#### Specialized Recovery Services Program Disqualifying Offenses and Exclusion List for Providers on and after August 1, 2024.

##### Tier I: Permanent Exclusion

- 2903.01 Aggravated murder
- 2903.02 Murder
- 2903.03 Voluntary manslaughter
- 2903.11 Felonious assault
- 2903.15 Permitting child abuse
- 2903.16 Failing to provide for a functionally-impaired person
- 2903.34 Patient abuse or neglect
- 2903.341 Patient endangerment
- 2905.01 Kidnapping
- 2905.02 Abduction
- 2905.32 Human trafficking
- 2905.33 Unlawful conduct with respect to documents
- 2907.02 Rape
- 2907.03 Sexual battery
- 2907.04 Unlawful sexual conduct with a minor, formerly corruption of a minor
- 2907.05 Gross sexual imposition
- 2907.06 Sexual imposition
- 2907.07 Importuning
- 2907.08 Voyeurism
- 2907.12 Felonious sexual penetration, as that offense existed prior to September 3, 1996
- 2907.31 Disseminating matter harmful to juveniles
- 2907.32 Pandering obscenity
- 2907.321 Pandering obscenity involving a minor
- 2907.322 Pandering sexually-oriented matter involving a minor
- 2907.323 Illegal use of a minor in nudity-oriented material or performance
- 2909.22 Soliciting or providing support for act of terrorism
- 2909.23 Making terroristic threats
- 2909.24 Terrorism
- 2913.40 Medicaid fraud

##### Tier II: Ten-year Exclusionary Period

- 2903.04 Involuntary manslaughter

2903.041 Reckless homicide

2905.04 Child stealing

2905.05 Child enticement

2905.11 Extortion

ACTION: Final ENACTED DATE: 07/15/2016 9:34 AM Appendix

5160-43-09

APPENDIX p(161938) pa(300147) d(639896) ra(500552) print date: 07/15/2016 8:00 PM

2907.21 Compelling prostitution

2907.22 Promoting prostitution

2907.23 Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another

2909.02 Aggravated arson

2909.03 Arson

2911.01 Aggravated robbery

2911.11 Aggravated burglary

2913.46 Illegal use of food stamps or WIC program benefits

2913.48 Workers' Compensation fraud

2913.49 Identity fraud

2917.02 Aggravated riot

2923.12 Carrying concealed weapons

2923.122 Illegal conveyance or possession of deadly weapon or danger ordnance in a school safety zone,

illegal possession of an object indistinguishable from a firearm in a school safety zone

2923.123 Illegal conveyance, possession, or control of deadly weapon or ordnance into courthouse

2923.13 Having weapons while under a disability

2923.161 Improperly discharging a firearm at or into a habitation or school

2923.162 Discharge of firearm on or near prohibited premises

2923.21 Improperly furnishing firearms to minor

2923.32 Engaging in a pattern of corrupt activity

2923.42 Participating in a criminal gang

2925.02 Corrupting another with drugs

2925.03 Trafficking in drugs

2925.04 Illegal manufacture of drugs or cultivation of marijuana

2925.041 Illegal assembly or possession of chemicals for the manufacture of drugs

3716.11 Placing harmful or hazardous objects in food or confection

Tier III: Seven-year Exclusionary Period

959.13 Cruelty to animals

959.131 Prohibitions concerning companion animals

2903.12 Aggravated assault

2903.21 Aggravated menacing

2903.211 Menacing by stalking  
2905.12 Coercion  
2909.04 Disrupting public services  
2911.02 Robbery  
2911.12 Burglary  
2913.47 Insurance fraud  
2917.01 Inciting to violence  
2917.03 Riot  
2917.31 Inducing panic  
2919.22 Endangering children  
2919.25 Domestic violence  
2921.03 Intimidation  
2921.11 Perjury  
2921.13 Falsification, falsification in a theft offense, falsification to purchase a firearm, or  
falsification to  
obtain a concealed handgun license  
2921.34 Escape  
2921.35 Aiding escape or resistance to lawful authority  
2921.36 Illegal conveyance of weapons, drugs or other prohibited items onto the grounds of a  
detention  
facility or institution  
2925.05 Funding drug trafficking  
2925.06 Illegal administration of distribution of anabolic steroids  
2925.24 Tampering with drugs  
2927.12 Ethnic intimidation

**Tier IV: Five-year Exclusionary Period**

2903.13 Assault  
2903.22 Menacing  
2907.09 Public indecency  
2907.24 Soliciting  
2907.25 Prostitution  
2907.33 Deception to obtain matter harmful to juveniles  
2911.13 Breaking and entering  
2913.02 Theft  
2913.03 Unauthorized use of a vehicle  
2913.04 Unauthorized use of computer, cable or telecommunication property  
2913.05 Telecommunications fraud  
2913.11 Passing bad checks  
2913.21 Misuse of credit cards  
2913.31 Forgery, forging identification cards or selling or distributing forged identification  
cards

2913.32 Criminal simulation  
2913.41 Defrauding a rental agency or hostelry  
2913.42 Tampering with records  
2913.43 Securing writings by deception  
2913.44 Personating an officer  
2913.441 Unlawful display of law enforcement emblem  
2913.45 Defrauding creditors  
2913.51 Receiving stolen property  
2919.12 Unlawful abortion  
2919.121 Unlawful abortion upon minor  
2919.123 Unlawful distribution of an abortion-inducing drug  
2919.23 Interference with custody  
2919.24 Contributing to the unruliness or delinquency of a child  
2921.12 Tampering with evidence  
2921.21 Compounding a crime  
2921.24 Disclosure of confidential information  
2921.32 Obstructing justice  
2921.321 Assaulting or harassing a police dog, horse, or service animal  
2921.51 Impersonation of peace officer  
2925.09 Illegal administration, dispensing, distribution, manufacture, possession, selling, or using of any dangerous veterinary drug  
2925.11 Drug possession, other than a minor drug possession offense  
2925.13 Permitting drug abuse  
2925.22 Deception to obtain a dangerous drug  
2925.23 Illegal processing of drug documents  
2925.36 Illegal dispensing of drug samples  
2925.55 Unlawful purchase of pseudoephedrine product  
2925.56 Unlawful sale of pseudoephedrine product

Tier V: No Exclusionary Period

2919.21 Non-support, contributing to non-support of dependents  
2925.11 Drug possession that is a minor drug possession offense  
2925.14 Drug paraphernalia  
2925.141 Illegal use or possession of marijuana drug paraphernalia