

173-42-06

**PASSPORT program (medicaid-funded component):
individuals' choices and responsibilities.****(A) Person-centered planning:**

(1) The individual is subject to rule 5160-44-02 of the Administrative Code. To comply with that rule, the individual and ODA's designee shall have flexibility to meet by telephone, video conference, or in person to develop the individual's person-centered services plan (plan) according to rule 5160-44-02 of the Administrative Code.

~~(2) Responsibilities for ODA's designee:~~

~~(a)(2) ODA's designee shall draft the plan in plain language that an individual with disabilities or limited English proficiency, and the individual's team, may understand according to the requirements in rule 5160-44-02 of the Administrative Code.~~

~~(b) To assure the individual's health and safety, ODA's designee shall help the individual make choices that ODA's designee shall record into the plan. In doing so, ODA's designee shall acknowledge that the individual may make choices that negatively impact his or her life.~~

~~(c) In the plan, ODA's designee shall record the following:~~

~~(i) Where the individual chooses to live while receiving services.~~

~~(ii) The providers from which the individual chooses to receive services.~~

~~(iii) The individual's personal preferences on how services are to be provided to the individual.~~

~~(iv) Any additional information required by rule 5160-44-02 of the Administrative Code.~~

~~(d) After the plan is developed, ODA's designee shall give electronic or paper copies of the plan to the individual, the individual's team, and the providers authorized in the plan.~~

(3) Choices and responsibilities for the individual:

(a) ~~In addition to any person from ODA's designee, the~~ The individual may choose a team of people to join the individual and ODA's designee in the meeting ~~required~~ in paragraph (A)(1) of this rule.

(b) The individual shall cooperate with, and show respect to, ODA's designee to facilitate the following:

(i) Assessing the individual and visiting the individual's home to determine the individual's eligibility for the PASSPORT program, enroll the individual into the PASSPORT program, and determine the individual's service needs.

(ii) Recruiting, selecting, and dismissing the individual's providers. 42 C.F.R. 431.51 allows an individual to choose the providers from whom the individual wants to receive services, so long as each provider the individual chooses is qualified and willing to provide the services the individual needs.

(iii) Developing and maintaining back-up plans that meet the individual's needs.

(c) After the plan is developed, the individual shall do the following:

(i) Understand the services authorized in the individual's person-centered services plan.

(ii) Use the services ODA's designee authorizes in the approved plan.

(iii) Notify ODA's designee if the individual desires to change the provider from whom the individual receives services.

(iv) Notify ODA's designee of any significant change that may affect the individual's service needs so that ODA's designee may update the plan. Significant changes include the following:

(a) The provider does not provide an authorized service at the time, or for the period of time, authorized by ODA's designee.

~~(a)~~ (b) The individual moves to another address.

(c) The individual repeatedly refuses to receive services.

~~(b)~~ The individual's physical, mental, or emotional status changes.

~~(c)~~ The individual's environmental status significantly changes.

~~(d)~~ Other significant health or safety issues.

- (4) The medicaid-funded component of the PASSPORT program only pays for services authorized in the plan.

(B) ~~Responsibilities~~ General responsibilities for the individual regarding providers in general:

- (1) ~~The individual shall treat~~ Treating providers with respect.
- (2) ~~The individual shall allow~~ Allowing ODA's designee to exchange information with any of the individual's service providers on a need-to-know basis.
- (3) ~~The individual shall neither request,~~ Neither requesting, nor ~~offer~~ offering assistance to, a provider to engage in unethical, unprofessional, disrespectful, or illegal behavior when providing a service.
- (4) ~~The individual shall report~~ Reporting any incident involving the provider to ODA's designee. In turn, ODA's designee ~~shall investigate any reported incident and report any incident that may impact the health or safety of the individual to ODA~~ is subject to the incident-reporting requirements in rule 5160-44-05 of the Administrative Code.
- (5) ~~The individual shall notify~~ Notifying ODA's designee if the provider (or if an agency provider, the provider's staff) misses a scheduled service episode.
- (6) ~~The individual shall notify~~ Notifying the provider if the individual is going to miss a scheduled service episode, unless the provider is already informed of the individual's absence.
- (7) ~~Immediately following the conclusion of each episode of service by a participant-directed provider, the individual shall provide~~ Providing the provider (or, if an agency provider, the provider's staff) with the individual's unique identifier to verify that the provider (or the provider's staff) provided ~~the a service immediately following the conclusion of each episode. The individual shall never verify blank time sheets or time sheets that the provider (or the provider's staff) completes before providing services.~~ a service immediately following the conclusion of each episode.
- (8) ~~The individual shall verify~~ Verifying when each episode of service begins and ends, and if rule 5160-1-40 of the Administrative Code requires using electronic visit verification (EVV), ~~verify~~ verifying when each episode of service begins and ends by using the provider's chosen EVV method.
- (9) ~~The individual shall work with ODA's designee to resolve problems and concerns.~~

~~(10)~~(9) Working with ODA's designee to resolve problems and concerns. If requested by the individual, ODA's designee shall act as a facilitator to resolve conflicts between the individual and the provider.

(C) ~~Responsibilities~~ Qualifications for individuals to direct participant-directed providers:

(1) An individual ~~may choose~~ qualifies to direct a participant-directed provider: ~~if ODA's designee shall authorize a participant-directed provider for the individual if~~ determines that all of the following are met:

~~(a) The individual completes form ODA1041 and provides it to ODA's designee. As used in this paragraph, "form ODA1041" means form ODA1041 'Individual's Request for a Participant-Directed Provider' (Rev. 10/2020).~~

~~(b)~~(a) The provider is qualified and willing to provide the services the individual needs.

~~(c)~~(b) The individual successfully completes any training that ODA or its designee ~~requires~~ determines is necessary for the individual to direct a participant-directed provider.

~~(d)~~(c) ODA's designee determines that the individual is able to ~~manage the~~ direct a provider (i.e., perform the responsibilities of an employer): ~~ODA's designee shall base this determination on an~~ based upon an assessment by ODA's designee of the individual's strengths and weaknesses related to his or her the individual's ability to direct a provider. The assessment shall evaluate whether the individual demonstrates an and understanding of all of the following:

(i) The services authorized in the individual's person-centered services plan.

(ii) The service activities the medicaid-funded component of the PASSPORT program covers for each service the individual would receive.

(iii) The methods for hiring and firing a participant-directed provider and selecting and dismissing agency and non-agency providers.

(iv) How to review databases and check criminal records according to Chapter 173-9 of the Administrative Code.

- (v) The methods for ~~entering into developing~~ written or electronic agreements activity plans with providers ~~for specific activities~~.
 - (vi) How to determine the necessary skills for a provider to meet the individual's specific needs and The the methods options for training providers to meet the individual's specific needs acquire those skills.
 - (vii) The methods for supervising and monitoring the provider's performance of specific activities, including written or electronic approval of the provider's time sheets.
 - (viii) How to work with ODA's designee to develop a back-up plan for providing a service if a provider is unable to provide the agreed-upon service.
 - (ix) ~~The methods for lodging complaints, including use of the regional and state long term care ombudsman, and familiarity with how to contact~~ How to seek assistance from the state or regional long-term care ombudsman program to resolve a problem or concern with a provider.
 - (x) The state appeal and fair hearing request procedures.
 - (xi) How to verify when each episode of service begins and ends, and to do so by using EVV, if rule 5160-1-40 of the Administrative Code requires ~~using participant-directed providers to use~~ EVV.
 - (xii) Records-retention requirements.
- (2) ODA's designee shall retain records of its assessment and determination under paragraph ~~(D)(1)(e)-(C)(1)(c)~~ of this rule.
- (D) Choices and responsibilities regarding participant-directed providers: If ODA's designee authorizes a participant-directed provider for the individual in the person-centered services plan, the following additional responsibilities apply:
- (1) Responsibilities for ODA's designee:
 - (a) ~~In a manner that is most effective for the individual, ODA's designee shall provide~~ Providing the individual with the following information in a manner that is most effective for the individual:
 - (i) A list of the individual's choices and responsibilities listed in this rule.

- (ii) The provider's requirements under Chapter 173-39 of the Administrative Code.
 - (iii) Information on the ~~medicaid-funded component of the~~ PASSPORT program.
- (b) ~~ODA's designee shall review~~ Reviewing the information listed under ~~paragraph (D)(3)(a)~~ paragraphs (D)(2) and (D)(3) of this rule with the individual and offer assistance to help ~~him or her~~ the individual understand the information.
- (c) ~~ODA's designee shall help~~ Helping the individual recruit, hire, retain, and fire ~~his or her~~ the individual's participant-directed provider.
- (d) ~~ODA's designee shall communicate~~ Communicating with the individual in a manner that protects the individual's confidentiality.
- (e) ~~ODA's designee shall help~~ Helping the individual identify the an appropriate method ~~by which for~~ the individual ~~shall to~~ verify that the provider provides each episode of service according to the person-centered services plan, retain records on verified services, and provide (or give access to) those records to the participant-directed provider.
- (f) ~~ODA's designee may revise~~ Revising the person-centered services plan to ~~require the individual to receive services from only agency or non-agency providers if the individual fails to comply with the requirements under paragraph (D) of this rule or if the individual's health and safety cannot be assured by a participant-directed provider. If ODA's designee requires the individual to receive services from only agency providers, ODA's designee shall give the individual a notice to this effect that also explains the individual's hearing rights in division 5101:6 of the Administrative Code, remove authorization for a participant-directed provider if both of the following occur:~~
- (i) Either the individual fails to comply with the responsibilities for individuals under paragraphs (D)(2) and (D)(3) of this rule or the individual's health and safety cannot be assured by a participant-directed provider.
 - (ii) ODA's designee notifies the individual that it no longer authorizes the individual to receive a service from a participant-directed provider and the individual's right to a hearing on this matter under division 5101:6 of the Administrative Code.

(2) Responsibilities for the individual and ODA's designee to perform together:

- (a) For any person the individual has under final consideration to hire as ~~his or her~~ the individual's participant-directed provider, the individual ~~with may seek~~ the assistance of ODA's designee ~~shall review databases and check criminal records according to to comply with~~ section 173.38 of the Revised Code and Chapter 173-9 of the Administrative Code.
- (b) The individual and ODA's designee shall work together to develop a back-up plan for providing a service if the provider cannot, or does not, meet ~~his or her~~ the provider's obligation to provide a service to the individual.
- (c) The individual shall ~~work~~ consult with ODA's designee ~~and the provider to decide what to determine what~~, if any, ~~skills additional orientation or training with the provider's scope of practice is necessary for the provider needs to successfully complete in order to meet the individual's specific needs. The individual and ODA's designee shall work with the provider to secure the educational opportunity, training the provider needs to obtain those skills, deadline to impose on the provider to complete the training, and means for the provider to access the training. The individual may participate in the training.~~
- ~~(d) The individual shall work with ODA's designee and the provider to decide what, if any, continuing education requirement within the provider's scope of practice is necessary to meet the individual's expectations. The individual and ODA's designee shall work with the provider to secure the educational opportunity. (The individual may participate in the continuing education.)~~
- ~~(e)~~ (d) The individual shall work with the financial management service that ODA's designee provides for individuals who direct participant-directed providers under the medicaid-funded component of the PASSPORT program.
- ~~(f)~~ (e) The individual shall work with ODA's designee to ensure that the person-centered services plan reflects the primary method to verify when each episode of service begins and ends, including EVV, if rule 5160-1-40 of the Administrative Code ~~requires obligates using participant-directed providers to use~~ EVV.

(3) Responsibilities for the individual:

(a) The individual shall develop an activity plan with the provider, date the plan, and provide the individual's unique identifier to authenticate the plan, in a manner that does not conflict with the person-centered services plan.

~~(3)(b) Responsibility for the individual:~~ The individual shall designate a location in ~~his or her~~ the individual's home in which the provider may safely store a copy of the individual's activity plan in a manner that protects the individual's confidentiality. (Having a copy of the activity plan in the individual's home contributes to the provider's ability to adhere to the activity plan.)

(c) No individual may verify blank time sheets or time sheets that the provider (or the provider's staff) completes before providing services.

(E) Authorized representative: If an individual has an authorized representative, the individual's authorized representative may represent the individual for any purpose under this rule.

(F) Definitions for this rule:

"Agency provider," "non-agency provider," and "participant-directed provider" have the same meanings as in the definition of "provider" in rule 173-39-01 of the Administrative Code.

"Electronic visit verification" (EVV) has the same meaning as in rule 173-39-01 of the Administrative Code.

"Financial management service" has the same meaning as in rule 5160-31-02 of the Administrative Code.

~~"Incident" has the same meaning as in rule 173-39-01 of the Administrative Code.~~

"Unique identifier" has the same meaning as in rule 173-39-01 of the Administrative Code.

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