

173-42-06

PASSPORT program (medicaid-funded component): service options for consumers and responsibilities for consumers, case managers, and ODA's designees.

(A) Service options for consumers:

- (1) A consumer shall only receive a service through the medicaid-funded component of the PASSPORT program if a case manager authorizes the service in the consumer's service plan.
- (2) 42 C.F.R. 431.51 (October 1, 2013 edition) allows any consumer who is enrolled in the medicaid-funded component of the PASSPORT program to freely choose which providers will furnish the services that a case manager authorizes in his or her service plan so long as both of the following conditions are met:
 - (a) The provider is qualified to provide the service to the consumer, including qualifications such as having a provider agreement with ODM and being certified by ODA.
 - (b) The provider is willing to furnish the service to the consumer.
- (3) ODA's designee shall assure the health and welfare of each consumer while acknowledging that, according to this rule, every consumer has a right to make informed choices that may impact his or her life.
- (4) A consumer may only choose to have a consumer-directed provider furnish his or her services if the case manager determines that the consumer is able to direct a provider. If a consumer chooses to direct a provider, the case manager shall assess the consumer's strengths and weaknesses (and/or, if the consumer has an authorized representative, the authorized representative's strengths or weaknesses) related to his or her ability to direct a provider. The case manager shall retain records supporting the determination. The case manager shall allow the consumer to direct a provider if the case manager's assessment establishes that the consumer demonstrates an understanding of the components of the service the provider shall furnish, an understanding of how to direct the provider, and an understanding of, and ability to, perform the responsibilities of an employer. These understandings and abilities include the following:
 - (a) The consumer completes any consumer training that ODA (or ODA's designee) requires.
 - (b) For every service that a case manager authorizes, the consumer understands which activities are components of the service activities are covered:
 - (i) If the case manager authorizes an alternative meal service, the

- consumer shall understand rule 173-39-02.2 of the Administrative Code.
- (ii) If the case manager authorizes pest control, the consumer shall understand rule 173-39-02.3 of the Administrative Code.
- (iii) If the case manager authorizes the choices home care attendant service, the consumer shall understand rule 173-39-02.4 of the Administrative Code.
- (iv) If the case manager authorizes home medical equipment, the consumer shall understand rule 173-39-02.7 of the Administrative Code.
- (v) If the case manager authorizes home maintenance, minor home modification, or home repair, the consumer shall understand rule 173-39-02.9 of the Administrative Code.
- (vi) If the case manager authorizes personal care, the consumer shall understand rule 173-39-02.11 of the Administrative Code.
- (c) The consumer understands how to review databases and check criminal records according to Chapter 173-9 of the Administrative Code.
- (d) The consumer understands the methods for selecting and dismissing providers.
- (e) The consumer understands the methods for entering into written agreements with providers for specific activities.
- (f) The consumer understands the methods for training providers to meet the consumer's specific needs.
- (g) The consumer understands the methods for supervising and monitoring the provider's performance of specific activities, including written approval of the provider's time sheets.
- (h) The consumer develops a back-up plan for furnishing services if a provider is unable to furnish the agreed-upon service.
- (i) The consumer understands the methods for lodging complaints, including use of the regional and state long term care ombudsman, and familiarity with how to contact the state long-term care ombudsman.
- (j) The consumer is familiar with the state appeal and fair hearing request procedures.

(k) The consumer understands records-retention requirements.

(l) The consumer has an ability to manage the provider when he or she furnishes a service.

(5) If the consumer who directs a consumer-directed provider desires to receive a service from another provider type, ODA's designee shall identify and secure a provider of another type. If a consumer who does not direct a consumer-directed provider desires to receive a service from a consumer-directed provider, ODA's designee shall conduct the assessment under paragraph (A)(4) of this rule.

(B) Responsibilities for consumers, case managers, and ODA's designees:

(1) To help the case manager develop a service plan that best addresses the consumer's needs, the consumer and the case manager shall meet face-to-face to develop his or her service plan. The consumer shall decide if anyone other than the case manager shall participate in this meeting.

(2) The consumer shall inform each provider of his or her personal preferences about how the provider will furnish the duties, tasks, or interventions that the case manager authorizes in the consumer's service plan.

(3) The consumer shall allow the case manager to exchange information with any of the consumer's service providers on a need-to-know basis.

(4) The consumer shall not aid the provider in furnishing a service in a manner that does not comply with any rule or law that regulates the provider, including the ethical standards in rule 173-39-02 of the Administrative Code.

(5) The consumer shall not request that the provider furnish a service in a manner that does not comply with any rule of law that regulates the provider, including the ethical standards in rule 173-39-02 of the Administrative Code.

(6) The consumer shall report any incident involving the provider to the case manager. In turn, the case manager shall investigate any reported incident and report any incident that may impact the health and welfare of the consumer to ODA.

(7) The consumer shall notify the provider if the the provider (or the provider's staff) misses a scheduled service episode.

(8) The consumer shall notify the provider if the consumer is going to miss a scheduled service episode, unless the provider is already informed of the consumer's absence.

- (9) Immediately following the conclusion of each episode of service, the consumer shall furnish the provider's staff with his or her signature to verify that the provider's staff furnished the service. The consumer shall never sign blank timesheets or timesheets that the provider's staff completes before furnishing services.
- (10) ODA's designee shall act as a facilitator to resolve conflicts between the consumer and the provider.
- (11) The consumer shall notify the case manager if the consumer desires to change the type of provider from whom he or she receives a service.
- (12) After the case manager has developed the service plan, the consumer shall notify the case manager of any significant change that may affect his or her service needs, including a change that may require more or fewer hours of service, and the case manager shall revise the service plan accordingly. Significant changes include the following:
- (a) The consumer moves to another address.
 - (b) The consumer's physical, mental, or emotional status changes; the consumer's environmental conditions change; or other health and safety issues.
- (13) If the consumer chooses to receive a service from a consumer-directed provider, the following additional responsibilities apply:
- (a) The case manager shall furnish the consumer with a list of the consumer's rights and responsibilities listed in this rule, with the provider's requirements under rules 173-39-02, 173-39-02.4, and 173-39-02.11 of the Administrative Code, and with other medicaid waiver information and materials. In doing so, the case manager shall use communication mechanisms that are most effective for the consumer. The case manager shall review these materials with the consumer and assist him or her to understand his or her specific responsibilities.
 - (b) If the case manager developed a service plan according to his or her determination that the consumer (and/or, the consumer's authorized representative) was able to direct a consumer-directed provider according to paragraph (A)(4) of this rule, but the case manager later determines that the consumer is no longer able to direct a provider, the case manager shall implement an alternative service plan utilizing an agency or non-agency provider in place of the consumer-directed provider.
 - (c) The consumer shall recruit, select, and dismiss his or her

consumer-directed provider and the case manager shall assist the consumer in these responsibilities.

(d) For any person that he or she has under final consideration to hire as his or her consumer-directed provider, the consumer shall review databases and check criminal records according to Chapter 173-9 of the Administrative Code.

(e) The consumer and the case manager shall work together to develop a back-up plan for furnishing a service if the provider cannot, or does not, meet his or her obligation to furnish a service to the consumer.

(f) The consumer shall work with the case manager and the provider to decide what, if any, additional orientation or training within the provider's scope of practice is necessary for the provider to complete to meet the consumer's needs. The consumer and the case manager shall work with the provider to secure the educational opportunity.

(g) The consumer shall work with the case manager and the provider to decide what, if any, continuing education requirement within the provider's scope of practice is necessary to meet the consumer's expectations. The consumer and the case manager shall work with the provider to secure the educational opportunity. (The consumer may participate in the continuing education.)

(h) The case manager shall assist the consumer to retain records that identify the method by which the consumer will verify that the provider furnishes each episode of service according to the service plan.

(i) The consumer shall work with ODA's designated financial management service for consumers who direct consumer-directed providers under the medicaid-funded component of the PASSPORT program.

(j) The consumer shall designate a location in his or her home in which the provider may safely store a copy of the consumer's activity plan in a manner that protects the consumer's confidentiality. (Having a copy of the activity plan in the consumer's home contributes to the provider's ability to adhere to the activity plan.)

(k) The consumer and ODA's designee shall work together to monitor the provider's performance.

(l) ODA's designee shall communicate with the consumer in a manner that protects the consumer's right to confidentiality.

(C) Authorized representative: If a consumer has an authorized representative, the consumer's authorized representative may represent the consumer for any purpose

under this rule.

(D) Definitions for this rule:

(1) "Agency provider," "non-agency provider," and "consumer-directed provider" have the same meaning as in rule 173-39-01 of the Administrative Code.

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

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

(4) "Signature" has the same meaning as "consumer signature" in rule 173-39-01 of the Administrative Code.

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