

5101:3-32-03 **Eligibility for enrollment for the choices program.**

~~A consumer electing to participate in the choices program must meet all of the~~ The following criteria must be met in order for a consumer to be eligible for enrollment:

- (A) The consumer must be age sixty or older at time of enrollment.
- (B) The consumer must have an intermediate or skilled level of care in accordance with rule 5101:3-3-05 or rule 5101:3-3-06 of the Administrative Code.
- ~~(C) In the absence of the choices program, the consumer would require nursing facility (NF) services as defined in 42 CFR 440.40 and 42 CFR 440.150 (as amended October 1, 2004).~~
- ~~(D)~~(C) The consumer must meet medicaid financial eligibility as determined by the CDJFS in accordance with Chapters rules 5101:1-37 and 5101:1-39~~5101:1-38-01.6 and 5101:1-39-95~~ of the Administrative Code.
- ~~(E)~~(D) While receiving choices program services, the consumer must reside in the service area defined in the approved 1915(c) waiver for the choices program, ~~in a setting which is not a Keyes amendment facility which means an institution, foster home or group living arrangement in which (as determined by the state) a significant number of recipients of supplemental security income benefits is residing or is likely to reside, a hospital, or a NF, as defined in rule 5101:3-31-02 of the Administrative Code.~~ The consumer shall not reside in any of the following living arrangements while enrolled in the choices program:
- (1) Adult foster home certified under section 173.36 of the Revised Code;
  - (2) Adult family homes or adult group homes as defined in section 3722.01 of the Revised Code that is licensed as an adult care facility under section 3722.04 of the Revised Code;
  - (3) Residential care facility as defined in section 3721.02 of the Revised code;
  - (4) Community alternative home as defined in section 3724.01 of the Revised Code that is licensed under section 3724.03 of the Revised Code;
  - (5) Residential facility of the type defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code that is licensed by the Ohio department of mental health;
  - (6) An apartment or room that is used to provide community mental health housing services, is certified by the Ohio department of mental health under division (M) of section 5119.61 of the Revised Code, and is approved by a board of alcohol, drug addiction, and mental health services in accordance with

division (A)(13) of section 340.03 of the Revised Code:

(7) Hospital or NF as defined in rule 5101:3-31-02 of the Administrative Code:

(8) "Keys amendment facility" as defined in section 1616(e) of the Social Security Act; or

(9) Any other facility that is licensed and/or certified by any state or local government.

~~(F)~~(E) The consumer must be willing and capable of directing provider activities. Capability must be demonstrated through a consumer certification process conducted by the PASSPORT administrative agency (PAA). To obtain certification, the consumer or his or her designee must meet all of the following:

- (1) Attend all required training;
- (2) Demonstrate all skills necessary to supervise direct service workers, including but not limited to:
  - (a) An understanding of what service activities are covered and the corresponding provider requirements, including criminal records check requirements; and
  - (b) Methods for selecting and dismissing providers; and
  - (c) Methods for entering into written agreements with providers for specific activities and corresponding payment rates; and
  - (d) Methods for training providers to meet the consumer's specific needs; and
  - (e) Methods for supervising and monitoring providers' performance of specific activities, including written approval of provider time sheets and billing invoices; and
  - (f) Development of a reliable service delivery back-up plan for situations in which a provider is unable to deliver the agreed-upon service(s); and
  - (g) Methods for lodging complaints, including use of the regional and state long term care ombudsman, and familiarity with the state's Ohio department of aging (ODA) ombudsman long term care complaint line; and

- (h) Familiarity with state appeal and fair hearing request procedures; and
  - (i) Record keeping and ability to manage service delivery.
- (3) Agree to actively participate with the case manager in the development, monitoring and revision of the service plan.
  - (4) Agree to inform the case manager of negotiated rates prior to delivery of choices services. ODA and/or PAA retains the authority to approve negotiated rates.
  - (5) The consumer must use a payroll agent under contract with the PAA to process all individual service provider claims.
- (F) If, at any time, the individual or consumer fails or ceases to meet any of the eligibility criteria identified in this rule, the individual or consumer shall be denied or disenrolled from choices. In such instances, the individual or consumer shall be notified by the CDJFS and entitled to hearing rights in accordance with rules contained in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
- (G) The choices program has not reached the center for medicaid and medicare services (CMS) authorized limit of participants for the current year.
  - (H) The cost of the twelve-month service plan does not exceed the cost cap. The "cost cap" is a dollar amount adjusted for inflation equal to the total medicaid cost including consumer copayment for nursing facility services for the most recent state fiscal year for which data is available as set forth in in rule 5101:3-31-03 of the Administrative Code.
  - (I) The attending physician must verbally approve the service plan prior to choices enrollment and sign the service plan within thirty days of the enrollment date.

Effective:

R.C. 119.032 review dates: 06/13/2006

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 5111.85  
Rule Amplifies: 5111.85  
Prior Effective Dates: 8/30/01, 7/1/05