

TO BE RESCINDED

5101:3-41-12 **Prior authorization requirements for waiver services administered by the Ohio department of mental retardation and developmental disabilities.**

(A) Purpose

The purpose of this rule is to establish standards and procedures for prior authorization of waiver services when the individual funding level exceeds the funding range determined by the Ohio developmental disabilities profile (ODDP) for medicaid waiver services administered pursuant to section 5111.871 of the Revised Code. The procedures set forth in this rule shall not apply to services administered as part of the "Level One" waiver authorized by rule 5101:3-42-01 of the Administrative Code.

(B) Definitions

- (1) "CBMRDD" means the county board of mental retardation and developmental disabilities.
- (2) "Funding range" means the dollar range to which an individual has been assigned for the purpose of funding waiver services. The funding range applicable to an individual is determined by the score derived from an assessment using the ODDP that has been completed by a county board employee qualified to administer the tool. If prior authorization is issued pursuant to this rule, the dollar range in which the individual funding level resides shall be considered the funding range for the duration of the individual's waiver eligibility span or for the period specified in the written notification provided pursuant to paragraph (G) or (J) of this rule.
- (3) "Individual" means a person with mental retardation or other development disability who is eligible to receive home and community based services (HCBS) as an alternative to placement in an intermediate care facility for the mentally retarded under the applicable HCBS waiver. A guardian or authorized representative as defined in rule 5101:1-2-01 of the Administrative Code may take any action on behalf of the individual, may make choices for an individual or may receive notice on behalf of an individual to the extent permitted by applicable law.
- (4) "Individual funding level" means the total funds, calculated on a twelve month basis, that are necessary for payment for waiver services that have been determined through the individual service plan (ISP) development process to be sufficient in amount, duration and scope to meet the health and welfare needs of an individual.

- (5) "ISP" means the individual service plan, a written description of the services, supports, and activities to be provided to an individual.
 - (6) "Ohio developmental disabilities profile (ODDP)" means the standardized instrument utilized by the Ohio department of mental retardation and developmental disabilities (ODMRDD) to assess the relative needs and circumstances of an individual compared to others. The consumer-specific responses are scored and the individual is assigned to a funding range, which enables similarly-situated individuals to access comparable services under the waiver on a statewide basis.
 - (7) "ODJFS" means the Ohio department of job and family services.
 - (8) "ODMRDD" means the Ohio department of mental retardation and developmental disabilities.
 - (9) "Payment authorization for waiver services (PAWS)" means the process followed and the form used to communicate the amount and payment for each waiver service that has been established through the approved ISP process and that is contained in the ISP of an eligible enrollee.
 - (10) "Waiver eligibility span" means the twelve month period that begins on the effective date of the individual's initial waiver enrollment or date of re-determination.
- (C) ODMRDD will review requests from individuals for prior authorization of waiver services when the individual funding level resulting from the ISP exceeds the funding range determined by the ODDP.
- (D) Individuals shall submit requests for prior authorization in writing to ODMRDD. The CBMRDD shall assist in the preparation and submission of requests when the individual requests assistance. Upon receipt of a request for prior authorization, ODMRDD shall immediately notify the CBMRDD of the request.
- (E) Upon notification of a request for prior authorization from an individual or ODMRDD, the CBMRDD shall, within five business days, obtain and submit all of the following documentation to ODMRDD.
- (1) The name, address, waiver type and waiver enrollment number of the individual for whom the request is being made;

- (2) The name, address, phone number and e-mail address of the contact person(s) from the CBMRDD involved in the development of the ISP and assisting with the individual's request for prior authorization;
 - (3) The individual funding level being requested and documentation of the specific amount, frequency, ratio, rates and rate modification(s) for all services used in the calculation of the funding level;
 - (4) A brief summary of the request, including the specific criterion in paragraph (F) of this rule that the individual expects will be met;
 - (5) A copy of the assessment information used in the development of the ISP and any additional documentation in support of the request;
 - (6) A photocopy or electronic copy of the current or proposed ISP, including documentation of a behavior plan and/or documentation of the services requested, that produced a funding level that exceeds the funding range assigned by the ODDP;
 - (7) Results, including scoring, of the ODDP and the resulting assigned funding range;
 - (8) The expected date(s) of implementation of the waiver services if prior authorized and the period for which authorization is requested;
 - (9) A copy of all additional documents including those presented by the individual, and any and all relevant documentation related to a request for fair hearing made under section 5101.35 of the Revised Code in accordance with division 5101:6 of the Administrative Code.
 - (10) In addition to the previous list, the CBMRDD shall also obtain and submit any other documentation requested by ODJFS or ODMRDD.
- (F) ODMRDD shall prior authorize waiver services when the CBMRDD cannot recommend an ISP that ensures the health and welfare of the individual within the assigned funding range, and all of the criteria specified in paragraph (I) of this rule, and at least one of the following criteria are met:
- (1) Episodes of injury to self or others that have occurred within the last three months when there is a continuing risk of injury to self or others.

- (2) Presence of consistent behaviors in which the individual displays all of the following:
 - (a) Lacks impulse control; and
 - (b) Exhibits purposeful, dysfunctional goal-directed behavior to obtain or avoid something; and
 - (c) Requires constant monitoring and continual redirection and/or behavioral intervention.
- (3) Presence of a progressive medical condition or a mental illness that is generally associated with:
 - (a) Behaviors posing a risk to self or others; and
 - (b) Requiring a controlled environment to maintain health and safety.
- (4) Presence of a medical condition which, without staff intervention, would threaten the individual's medical stability.
- (5) Inability of an unpaid caregiver to provide previous levels of support and/or to provide the level of support currently required.
- (6) Alterations in staffing ratios resulting from circumstances beyond the control of the individual. Examples may include the loss of a roommate or a change in the individual's vocational schedule.
- (7) An emergency situation that creates for an individual a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An emergency may involve:
 - (a) Abuse, neglect or exploitation of the individual;
 - (b) Health and safety conditions that pose a serious risk to the individual or others, including immediate harm or death;
 - (c) Changes in the emotional or physical condition of the individual that necessitate substantial accommodations that cannot be reasonably provided by the individual's caretaker.

- (G) When ODMRDD authorizes a request made pursuant to this rule, ODMRDD shall issue written notification of its decision to the individual and the contact person from the CBMRDD. Notification will include the individual's right to request a hearing under the process set forth in section 5101.35 of the Revised Code in accordance with division 5101:6 of the Administrative Code.
- (H) On the fifth business day after receipt of all documents specified in paragraph (E) of this rule, ODMRDD shall submit in writing to ODJFS all requests for prior authorization that have not been authorized according to paragraph (G) of this rule. Requests submitted to ODJFS for prior authorization shall include:
- (1) All documents specified in paragraph (E) of this rule;
 - (2) A copy of the individual's written request for prior authorization;
 - (3) A copy of all documentation and correspondence produced by ODMRDD during the prior authorization review process;
 - (4) A written recommendation from ODMRDD regarding the individual's request, including any findings and an explanation in support of the recommendation.
- (I) When reviewing requests pursuant to this rule, ODJFS shall determine that waiver services are medically necessary when these services:
- (1) Are appropriate to the individual's health and welfare needs, living arrangement, circumstances and expected outcomes; and
 - (2) Are of an appropriate type, amount, duration, scope and intensity; and
 - (3) Are the most efficient and effective services that, when combined with other non-waiver services, ensure the health and welfare of the individual receiving the services; and
 - (4) Protect the individual from substantial harm expected to occur if the requested services are not authorized.
- (J) ODJFS shall issue written notification of its decision to prior authorize or deny the request, within ten business days of receipt of all documentation specified in paragraph (H) of this rule from ODMRDD. Notice shall be sent to the individual, the contact person from the CBMRDD and ODMRDD and will include the

individual's right to request a hearing under the process set forth in section 5101.35 of the Revised Code in accordance with division 5101:6 of the Administrative Code.

- (K) Any failure of ODMRDD or ODJFS to comply with the timeframes established in this rule does not constitute prior authorization for any request.
- (L) ODMRDD shall submit to ODJFS, no less than quarterly, a summary of all requests received from individuals in a format agreed upon by both ODMRDD and ODJFS.
- (M) ODJFS shall periodically analyze the frequency and distribution of all requests for prior authorization to identify statistically significant patterns or trends.
- (N) ODJFS and ODMRDD shall maintain all written records related to review of prior authorization for a period of six years following receipt of the request or until an initiated audit is resolved, whichever is longer.
- (O) ODJFS shall periodically review prior authorization requests submitted to ODMRDD and any associated documentation, including PAWS.
- (P) ODMRDD shall systematically evaluate compliance with prior authorization requirements by verifying that each individual's funding level is maintained within the assigned funding range. Results of this evaluation shall be provided in writing to ODJFS no less than quarterly.
- (Q) The CBMRDD shall implement all components of written prior authorization decision(s) issued by ODMRDD or ODJFS according to the timeframe(s) established within that notice.
- (R) Notwithstanding the procedures set forth in this rule, ODJFS may in its sole discretion, and in accordance with federal guidelines, authorize services and amend ISPs for individuals if ODJFS determines that such services are medically necessary and the procedures set forth in this rule would not accommodate a request for such medically necessary services.
- (S) Nothing in this rule shall be construed to permit ODJFS to amend provider payment rates as specified in rule 5123:2-9-06 of the Administrative Code and authorized by rule 5101:3-41-11 of the Administrative Code.

Effective:

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Certification

Date

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