

5101:3-45-03

**ODJFS-administered waiver program: consumer choice and control.**

Consumers enrolled on an Ohio department of job and family services- (ODJFS) administered waiver in accordance with rule 5101:3-46-02, 5101:3-47-02 or 5101:3-50-02 of the Administrative Code, and/or their authorized representatives, have choice and control over the arrangement and provision of home and community-based waiver services. Consumers also have choice over the selection and control over the direction of approved waiver service providers.

(A) An ODJFS-administered waiver service provider is categorized as either an "agency provider" or a "non-agency provider."

(1) An "agency provider" means a medicare-certified home health agency, an otherwise-accredited agency as defined in rule 5101:3-45-01 of the Administrative Code or other approved ODJFS-administered waiver service provider.

(2) A "non-agency provider" means an RN, an LPN at the direction of an RN, ~~or~~ a non-agency personal care aide service provider, or a non-agency home care attendant.

(B) A consumer may choose to receive waiver services as follows:

(1) Exclusively from agency providers;

(2) Exclusively from non-agency providers; or

(3) From a combination of agency and non-agency providers.

(C) The case management agency (CMA) shall assure that consumers and/or their authorized representatives have the authority to choose ODJFS-administered waiver service providers as outlined in paragraph (B) of this rule.

(D) If a consumer and/or authorized representative chooses to receive waiver services from an agency provider, the consumer and/or authorized representative shall comply with the requirements set forth in paragraphs (D)(1) to (D)(15) of this rule.

(1) Participate in the development of the all services plan and all plans of care.

(2) Decide whether anyone besides the case manager will participate in the face-to-face development of the all services plan and all plans of care.

- (3) Authorize the CMA to exchange information for development of the all services plan with all of the consumer's service providers.
- (4) Participate in the development and maintenance of service back-up plans that meet the needs of the consumer.
- (5) Communicate to the service provider assigned and employed by the agency provider, and the agency provider management staff, personal preferences about the duties, tasks and procedures to be performed.
- (6) Work with the CMA and the agency provider to identify and secure additional service provider orientation and training within the agency/caregiver scope of practice in order to meet the consumer's specific needs.
- (7) Agree that the service provider assigned and employed by the agency provider must adhere to all relevant ODJFS-administered waiver program requirements, medicaid rules and regulations, and the agency provider's policies and procedures.
- (8) Report to the case manager and the agency provider, in accordance with rule ~~5101:3-12-29~~ 5101:3-45-05 of the Administrative Code, incidents that may impact the health and welfare of the consumer.
- (9) Communicate to the case manager any significant changes, as defined in rule 5101:3-45-01 of the Administrative Code, that may affect the provision of services, or result in a need for more or fewer hours of service.
- (10) Provide verification that services have been furnished to the consumer, or approve provider timesheets only after services have been furnished. The consumer and/or authorized representative shall never approve blank timesheets, or timesheets that have been completed before services have been furnished.
- (11) Participate in the recruitment, selection and dismissal of the agency provider and service provider assigned and employed by the agency provider.
- (12) Notify the agency provider if the consumer is going to miss a scheduled visit.
- (13) Notify the agency provider if the service provider assigned and employed by the agency provider misses a scheduled visit.

- (14) Notify the case manager when any change in agency provider and/or service provider assigned and employed by the agency provider is necessary. Notification shall include the end date of the former agency provider and/or service provider, and the start date of the new provider.
  - (15) Participate in the monitoring of the performance of the agency provider, and the service provider assigned and employed by the agency provider.
- (E) If a consumer and/or authorized representative chooses to receive waiver services from a non-agency provider, the consumer and/or authorized representative shall comply with the requirements set forth in paragraphs (E)(1) to (E)(~~18~~19) of this rule.
- (1) Participate in the development of the all services plan and all plans of care.
  - (2) Decide whether anyone besides the case manager will participate in the face-to-face development of the all services plan and all plans of care.
  - (3) Authorize the CMA to exchange information for development of the all services plan with all of the consumer's service providers.
  - (4) Participate in the development and maintenance of service back-up plans that meet the needs of the consumer.
  - (5) Communicate to each non-agency provider personal preferences about the duties, tasks and procedures to be performed.
  - (6) Work with the CMA and non-agency provider to identify and secure additional orientation and training within the non-agency provider's scope of practice, in order to meet the consumer's specific needs.
  - (7) Work with the CMA and the non-agency provider to identify and secure continuing education within the non-agency provider's scope of practice. The consumer may participate in or conduct the continuing education.
  - ~~(7)~~(8) Agree that the non-agency provider must adhere to all relevant ODJFS-administered waiver program requirements and medicaid rules and regulations.
  - ~~(8)~~(9) Report to the case manager, in accordance with rule ~~5101:3-12-29~~ 5101:3-45-05 of the Administrative Code, incidents that may impact the

health and welfare of the consumer.

- ~~(9)~~(10) Communicate to the case manager any significant changes, as defined in rule 5101:3-45-01 of the Administrative Code, that may affect the provision of services, or result in a need for more or fewer hours of service.
  - ~~(10)~~(11) Approve non-agency provider timesheets only after services have been furnished to the consumer. The consumer and/or authorized representative shall never approve blank timesheets, or timesheets that have been completed before services have been furnished to the consumer.
  - ~~(11)~~(12) Participate in the recruitment, selection and dismissal of the non-agency provider.
  - ~~(12)~~(13) Notify the non-agency provider if the consumer is going to miss a scheduled visit.
  - ~~(13)~~(14) Notify the CMA if the non-agency provider misses a scheduled visit.
  - ~~(14)~~(15) Notify the case manager when any change in non-agency provider is necessary. Notification shall include the end date of the former non-agency provider and the start date of the new provider.
  - ~~(15)~~(16) Designate a location in the consumer's home in which the consumer, and the non-agency provider can safely store a copy of the consumer's clinical record in a manner that protects the confidentiality of this record, and for the purpose of contributing to the continuity of the consumer's care.
  - ~~(16)~~(17) Participate in the monitoring of the performance of the non-agency provider.
  - ~~(17)~~(18) Agree that each non-agency provider must complete ~~an annual~~ a structural review in accordance with rule ~~5101:3-12-30~~ 5101:3-45-06 of the Administrative Code.
  - ~~(18)~~(19) Make the consumer's clinical record identified in paragraph (E)(15) of this rule available upon request by ODJFS or the CMA.
- (F) If the consumer and/or authorized representative chooses to receive ODJFS-administered waiver services from a combination of agency and non-agency providers, the consumer and/or authorized representative must agree to

participate in all activities set forth in paragraphs (D) and (E) of this rule.

(G) The CMA shall comply with all of the requirements set forth in paragraphs (G)(1) to (G)(8) of this rule.

- (1) Assure the health and welfare of the consumer while acknowledging the consumer's right to make informed decisions and accept the resulting consequences that may impact the consumer's life.
- (2) Upon the consumer's enrollment in an ODJFS-administered waiver, provide the consumer and/or authorized representative with the administrative rules, the consumer's rights and responsibilities, and other waiver-related information and materials, using communication mechanisms that are most effective for the consumer and/or authorized representative. The case manager shall review these materials with the consumer and/or authorized representative and assist him or her to understand his or her specific responsibilities.
- (3) Work with the consumer and/or authorized representative to do the following:
  - (a) Select and direct approved waiver service providers;
  - (b) Develop the all services plan;
  - (c) Exchange information with all of the consumer's service providers for development of the all services plan;
  - (d) Develop and maintain service back-up plans that meet the needs of the consumer;
  - (e) Identify and secure additional provider orientation and training that is within the provider's scope of practice and meets the consumer's needs; and
  - (f) Upon request, identify and secure agency and/or non-agency providers when the consumer and/or authorized representative notifies the case manager that a change is necessary.
- (4) Report to ODJFS, and when appropriate investigate, incidents that may impact the health and welfare of the consumer, in accordance with rule ~~5101:3-12-29~~ 5101:3-45-05 of the Administrative Code.

- (5) Address significant changes, as defined in rule 5101:3-45-01 of the Administrative Code, experienced by the consumer that may affect the provision of services or result in a need for more or fewer hours of service.
- (6) Act as a facilitator to assist in resolving conflicts between the consumer and/or authorized representative, and the provider(s).
- (7) Document, in writing, that the consumer and/or authorized representative:
  - (a) Understands the consumer's specific needs;
  - (b) Possesses the skills necessary to meet the requirements set forth in paragraph (D), (E) or (F) of this rule, as appropriate;
  - (c) Demonstrates an understanding of his or her responsibilities pursuant to paragraph (G)(2) of this rule; and
  - (d) Identifies the method by which the consumer and/or authorized representative will verify that services have been furnished as identified on the all services plan.
- (8) Communicate with the consumer and/or authorized representative in a manner that protects the consumer's right to confidentiality.
- (H) If the CMA determines that the consumer and/or authorized representative cannot meet the requirements set forth in paragraph (E) of this rule, and/or the health and welfare of the consumer receiving services from a non-agency provider cannot be assured, then the CMA may require the consumer receive services from only agency providers. The consumer will be afforded notice and hearing rights in accordance with division 5101:6 of the Administrative Code.

Effective: 07/01/2010

R.C. 119.032 review dates: 08/01/2012

CERTIFIED ELECTRONICALLY

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Certification

06/21/2010

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Date

Promulgated Under: 119.03  
Statutory Authority: 5111.85  
Rule Amplifies: 5111.01, 5111.02, 5111.85  
Prior Effective Dates: 7/1/98, 8/13/07