

5160-41-17**Medicaid home and community-based services program - self-empowered life funding waiver.****(A) Purpose.**

- (1) The Ohio department of developmental disabilities (DODD) is responsible for the daily operation of the self-empowered life funding (SELF) waiver which will be administered pursuant to sections 5166.02 and 5166.20 of the Revised Code.
- (2) DODD operates the SELF waiver program pursuant to an interagency agreement with the Ohio department of medicaid (ODM) in accordance with section 5162.35 of the Revised Code.

(B) Definitions.

- (1) "Budget authority" means an individual has the authority and responsibility to manage the individual's budget for participant-directed services. This authority supports the individual in determining the budgeted dollar amount for each participant-directed waiver service that will be provided to the individual and making decisions about the acquisition of participant-directed waiver services that are authorized in the individual service plan.
- (2) "Common law employer" means the individual is the legally responsible and liable employer of staff selected by the individual. The individual hires, supervises, and discharges staff. The individual is liable for the performance of necessary employment-related tasks and uses a financial management services entity under contract with the state to perform necessary payroll and other employment-related functions as the individual's agent in order to ensure that the employer-related legal obligations are fulfilled.
- (3) "County board" means a county board of developmental disabilities established under Chapter 5126. of the Revised Code.
- (4) "Employer authority" means an individual has the authority to recruit, hire, supervise, and direct the staff who furnish supports. The individual functions as the common law employer or the co-employer of these staff.
- (5) "Financial management services" means services provided to an individual who directs some or all of the individual's waiver services.
- (6) "Financial management services entity" means a governmental entity and another third-party entity designated to perform necessary financial transactions on behalf of individuals who receive participant-directed services.

- (7) "Home and community-based services (HCBS)" means any federally approved medicaid waiver service provided to a waiver enrollee as an alternative to institutional care under Section 1915(c) of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C.1396n, as in effect on January 1, 2024, under which federal reimbursement is provided for designated home and community-based services to eligible individuals.
- (8) "Individual" means a person with a developmental disability who is eligible to receive HCBS as an alternative to placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID) under the applicable HCBS waiver. A guardian or authorized representative may give, refuse to give, or withdraw consent for services and may receive notice on behalf of an individual to the extent permitted by applicable law.
- (9) "Individual Service Plan (ISP)" means a written description of the services, supports, and activities to be provided to an individual. The ISP is developed using a person-centered planning process.
- (10) "Participant direction" means an individual has authority to make decisions about the individual's waiver services and accepts responsibility for taking a direct role in managing the services. Participant direction includes the exercise of budget authority and employer authority.
- (11) "Person-centered planning" is a process directed by the individual, that identifies his or her strengths, values, capacities, preferences, needs and desired outcomes. The process includes team members who assist and support the individual to identify and access medically necessary services and supports needed to achieve his or her defined outcomes in the most inclusive community setting.
- (12) "Provider" means a person or agency who is eligible per Chapter 5123-2 of the Administrative Code and rule 5160-1-17.2 to provide the specific SELF waiver service as specified in this rule.
- (13) "SSA" means a service and support administrator who is eligible to perform the functions of service and support administration per rules 5123-4-02 and 5123-5-02 of the Administrative Code.
- (14) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date.

(C) Eligibility.

(1) To be eligible for the SELF waiver program:

- (a) The individual's medicaid eligibilty has been established in accordance with Chapters 5160:1-1 to 5160:1-6 of the Administrative Code;
- (b) The individual has been determined to have a developmental disabilities level of care in accordance with rule 5123-8-01 of the Administrative Code;
- (c) The individual's health and welfare can be ensured through the utilization of SELF waiver services at or below the federally approved cost limitation and other formal and informal supports regardless of funding source;
- (d) The individual participates in the development of a person-centered services plan in accordance with the process and requirements set forth in rules 5123-9-02 and 5123-4-02 of the Administrative Code; and
- (e) The individual requires the provision of at least one waiver service on a monthly basis as documented in the individual's approved person-centered services plan.

(D) Enrollment.

- (1) Requests for the SELF waiver program are set forth in rules 5160:1-2-03 and 5123-9-01 of the Administrative Code utilizing ODM 02399 form Request for Medicaid Home and Community Based Services (HCBS) Waiver.
- (2) Individuals who meet the eligibility criteria in paragraph (C) of this rule will be informed of the following:
 - (a) All services available on this self-empowered life funding waiver, and any choices that the individual may make regarding those services;
 - (b) Any viable alternatives to the waiver; and
 - (c) The right to choose either institutional or home and community-based services.
- (3) DODD allocates waivers to the county board in accordance with section 5166.22 of the Revised Code.
- (4) The county board offers an available SELF waiver to eligible individuals in accordance with applicable waiting list category requirements set forth in rules 5160-41-05 and 5123-9-04 of the Administrative Code.

- (5) An individual's continued enrollment in the SELF waiver program is redetermined no less frequently than every twelve months beginning with the individual's initial enrollment date or subsequent redetermination date. Individuals will continue to meet the eligibility criteria specified in paragraph (C) of this rule to continue enrollment in the waiver program.
- (6) The maximum number of individuals that can be enrolled in the SELF waiver program statewide will not exceed the allowable number specified in the federally approved waiver document.

(E) Benefit Package

- (1) The SELF waiver program provides necessary home and community-based services to individuals of any age as an alternative to institutional care in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).
- (a) The SELF benefit package, as indicated in the federally approved waiver application, is limited to the services specified in Chapter 5123-9 of Administrative Code.
- (b) The SELF waiver program is a participant directed program as described in rule 5123-9-40 of the Administrative Code.
- (c) Financial management services provided by a financial management services entity are included in the benefit package.
- (d) The individual or the individual's guardian or the individual's designee perform the duties associated with participant direction including budget authority and employer authority in accordance with rule 5123-9-40 of the Administrative Code.
- (2) All services will be provided to an individual enrolled in the SELF waiver program pursuant to a written person-centered Individual Service Plan (ISP).
- (a) The ISP will be developed by qualified persons with input from the individual in accordance with rule 5123-4-02 of the Administrative Code.
- (b) The ISP will be developed to include only waiver services which are consistent with efficiency, economy, and quality of care and identify non-waiver services, regardless of funding source.
- (3) The ISP is subject to approval by ODM and DODD pursuant to section 5166.05 of the Revised Code. Notwithstanding the procedures set forth in this rule, ODM

may in its sole discretion, and in accordance with section 5166.05 of the Revised Code direct the county board or DODD to amend ISPs for individuals.

- (4) When DODD, ODM, or the county board acts to, deny, or terminate enrollment in the SELF waiver program, or to deny or reduce the level of waiver services delivered to an enrollee, the individual will be notified of his or her hearing rights in accordance with division 5101:6 of the Administrative Code.

(F) Service Provisions

- (1) Authorized SELF waiver services will be provided by persons or agencies who:
- (a) Are eligible per rule 5160-1-17.2 of the Administrative Code and
 - (b) Are eligible in accordance with Chapter 5123-2 and if applicable 5123-3 of the Administrative Code.
- (2) Services will be provided utilizing person-centered practices and in settings in accordance with 42 C.F.R. 441.530 (as in effect January 1, 2024).
- (3) Individuals enrolled, or their legal representative will be informed of freedom of choice in qualified providers in accordance with rule 5160-41-08 of the Administrative Code and 42 C.F.R. 431.51 (as in effect on January 1, 2024).
- (4) SELF waiver program payment standards are operated in accordance with rules 5160-41-20 and 5123-9-40 of the Administrative Code.
- (a) The maximum allowable payment rates of the SELF waiver program services are provided in Chapter 5123-9 of the Administrative Code.
- (5) ODM may conduct periodic monitoring and compliance reviews in accordance with section 5162.10 of the Revised Code.
- (a) Reviews may consist of, but are not limited to, physical inspections of records and sites where services are provided, interviews of providers, recipients, and administrators of waiver services.
- (6) Records related to the administration and provision of SELF waiver services may be reviewed by ODM, the auditor of the state, the attorney general, and the medicaid fraud control unit or their designees per sections 5162.10 and 5160.22 of the Revised Code.

(7) Individuals enrolled in the SELF waiver program are responsible for the provision of information to administering agencies as set forth in Chapter 5160:1-2 of the Administrative Code.

Replaces: 5160-41-17

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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