

5160-45-03

**Ohio department of medicaid (ODM) -administered waiver program: individual rights and responsibilities.**

Enrollment on an Ohio department of medicaid (ODM) -administered waiver is voluntary. Individuals enrolled on an ODM-administered waiver in accordance with rule 5160-46-02 of the Administrative Code shall be informed of their rights and responsibilities. Individuals also have choice and control over the arrangement and provision of home and community-based waiver services, and the selection and control over the direction of approved waiver service providers.

**(A) Individual rights.**

An individual enrolled in an ODM-administered waiver has the right to:

- (1) Be treated with dignity and respect.
- (2) Be protected from abuse, neglect, exploitation and other threats to personal health, safety and well-being.
- (3) Appoint an authorized representative to act on their behalf in accordance with 5160-1-33 of the Administrative Code.
- (4) Receive waiver services in a person-centered manner that is in accordance with an approved ~~all~~ person-centered services plan, is attentive to the individual's needs and maximizes personal independence.
- (5) Conduct person-centered training of their waiver service providers.
- ~~(5)~~ (6) Choose his or her case management agency (CMA) and case managers, and
  - (a) Have the case manager explain what the ODM-administered waiver is, how it will assist the individual and what the individual's rights and responsibilities are;
  - (b) Participate with the case manager and the team in the person-centered ~~all~~ services plan development process, and when possible, lead the process;
  - (c) Request assistance with recruitment of providers;
  - (d) Be able to effectively communicate with the case manager and team and receive information in a manner that is easy to understand;
  - (e) Be able to meet privately with the case manager;
  - (f) Receive ongoing assistance from the case manager; and

- (g) Be able to request changes in CMA case management agency and/or case manager, as necessary, subject to ODM's approval.
- ~~(6)~~(7) Make informed choices regarding the services and supports he or she receives and from whom, including provider-managed agency providers, and/or non-agency providers, or participant-directed providers as those terms are defined in rule 5160-45-01 of the Administrative Code.
- ~~(7)~~(8) Obtain the results of criminal records checks about current agency providers or provider applicants pursuant to section 5164.342 of the Revised Code and rules 5160-45-07 and 5160-45-11 of the Administrative Code.
- ~~(8)~~(9) Obtain the results of criminal records checks about current non-agency providers or provider applicants pursuant to section 5164.341 of the Revised Code and rules 5160-45-08 and 5160-45-11 of the Administrative Code.
- ~~(9)~~(10) Access files, records or other information related to the individual's health care.
- ~~(10)~~(11) Be assured of confidentiality of personal and sensitive health care information pursuant to relevant confidentiality and information disclosure laws.
- ~~(11)~~(12) Request assistance with problems, concerns and issues, and suggest changes without fear of repercussion.
- ~~(12)~~(13) Be fully informed about how to contact the case manager and ODM with problems, concerns, issues or inquiries.
- ~~(13)~~(14) Be informed of the right to appeal decisions made by ODM or its designee about waiver eligibility or services pursuant to division 5101:6 of the Administrative Code.

(B) Individual responsibilities.

- (1) Upon enrollment in an ODM-administered waiver, the individual must sign an ODM-approved waiver agreement accepting responsibility for the provisions in paragraphs (B)(1)(a) to (B)(1)(t) of this rule. The signature requirement in paragraph (B)(1) of this rule may be satisfied by an electronic signature or standard signature via regular mail, or otherwise in no instance any later than at the next face-to-face visit with the case manager.
- (a) Participate in, and cooperate during assessments to determine eligibility and enrollment in the waiver and service needs.

- (b) Decide who, besides the case manager, will participate in the service planning process.
- (c) Participate in, and cooperate with, the case manager and team in the development and implementation of ~~all~~ person-centered services plans and plans of care.
- (d) Participate in the recruitment, selection and dismissal of his or her providers.
- (e) Participate in the development and maintenance of back-up plans that meet the needs of the individual.
- (f) Work with the case manager and/or physician and the provider to identify and secure additional training within the provider's scope of practice in order to meet the individual's specific needs.
- (g) Not direct the service provider to act in a manner that is contrary to relevant ODM-administered waiver program requirements, medicaid rules and regulations and all other applicable laws, rules and regulations.
- (h) ~~Validate~~ Verify service delivery in a manner that includes, but is not limited to: the date and location of service delivery, arrival and departure start and end times, of the provider, the dated signature and the signatures of the provider and the dated signature of the individual or authorized representative. All signatures shall be obtained at the end of every visit or upon completion of the scheduled service. When services are rendered in multiple visits per day, signatures must be obtained upon completion of each visit.
- (i) Notify the case manager when any change in provider is necessary. Notification shall include the end date of the former provider, and the start date of the new provider.
- (j) Authorize the exchange of information for development of the ~~all~~ person-centered services plan with all of the individual's service providers, and in compliance with the "Health Insurance Portability and Accountability Act of 1996" (HIPAA) regulations set forth in 45 C.F.R. parts 160 and 164 (October 1, ~~2020~~ 2021) and the medicaid safeguarding information requirements set forth in 42 C.F.R. 431.000 to 431.306 (October 1, ~~2020~~ 2021) along with sections 5160.45 to 5160.481 of the Revised Code.
- (k) Provide accurate and complete information including, but not limited to medical history.

- (l) Utilize services in accordance with the approved ~~all-person-centered~~ services plan.
  - (m) Communicate to the provider personal preferences about the duties, tasks and procedures to be performed, and when appropriate, about provider performance concerns.
  - (n) Report to the case manager any service delivery issues including, but not limited to, service disruption, complaints and concerns about the provider, and/or health and safety issues.
  - (o) Keep scheduled appointments and notify the provider and case manager if he or she is going to miss a scheduled visit or service.
  - (p) Treat the case manager, team and providers with respect.
  - (q) Report to the case manager any significant changes, as defined in rule 5160-45-01 of the Administrative Code, that may affect the provision of services.
  - (r) Report to the case manager, in accordance with rule ~~5160-45-05~~5160-44-05 of the Administrative Code, incidents that may impact the health and welfare of the individual.
  - (s) Work with the case manager and team to resolve problems and concerns.
  - (t) Refuse to participate in dishonest or illegal activities involving providers, caregivers and team members.
- (2) When an individual receives services from an agency provider, the individual shall identify a location in his or her residence where a ~~file-record~~ containing a copy of his or her medication profile, if one exists, shall be safely maintained. The ~~file-record~~ may also include the individual's medication administration record, treatment administration record, aide assignment, ~~all-person-centered~~ services plan and plans of care.
- (3) When an individual receives services from a non-agency provider, the individual shall identify a location in his or her residence where a copy of the clinical record will be safely maintained.
- (C) If the individual fails to meet the requirements set forth in paragraph (B) of this rule, and/or the health and welfare of the individual receiving services from a non-agency provider cannot be assured, then the individual may be required to receive services

from only agency providers. The individual shall be afforded notice and hearing rights in accordance with division 5101:6 of the Administrative Code.

Effective: 10/1/2021  
Five Year Review (FYR) Dates: 7/16/2021 and 10/01/2026

CERTIFIED ELECTRONICALLY

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Certification

09/20/2021

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Date

Promulgated Under: 119.03  
Statutory Authority: 5166.02  
Rule Amplifies: 5162.03, 5164.02, 5166.02  
Prior Effective Dates: 07/01/1998, 08/13/2007, 07/01/2010, 04/01/2015,  
06/12/2020 (Emer.), 10/17/2020