

5160-58-03.2

**MyCare Ohio waiver: member choice, control, responsibilities and participant direction**  
~~**HCBS Waiver Program: Member Choice, Control, Responsibilities, and Participant Direction.**~~

A member and/or ~~their~~ an authorized representative who is acting on ~~the member's~~ behalf ~~of a member, (hereinafter "member")~~ who is enrolled ~~on~~ in the MyCare Ohio ~~HCBS-waiver program~~ in accordance with rule 5160-58-02.2 of the Administrative Code has choice and control over the arrangement and provision of home and community-based services (HCBS). Members also have choice over the selection and control over the direction of approved waiver service providers.

~~For the purpose of this rule, the term "member" includes, as appropriate, an authorized representative who is selected by the member and acts on behalf of the member.~~

(A) A member may choose to receive MyCare Ohio waiver services from any combination of providers on the provider panel of the MyCare Ohio plan selected by the member ~~and serving in the MyCare Ohio HCBS waiver program~~ pursuant to paragraph (B) of rule 5160-58-04 of the Administrative Code.

(B) A member receiving waiver services from any MyCare Ohio ~~HCBS-waiver program~~ provider shall: ~~comply with the requirements set forth in paragraphs (B)(1) to (B)(13) of this rule.~~

- (1) Participate with the waiver service coordinator in the development of the person-centered services plan as defined in rule 5160-44-02 of the Administrative Code. ~~waiver service plan and all plans of care including the development of a back-up plan.~~
- (2) Decide who from their trans-disciplinary care management team will participate in the face-to-face development of the integrated, individualized person-centered care services plan.
- (3) Communicate to the service provider and, as appropriate, the provider's ~~provider's~~ management staff, personal preferences about the manner in which duties, tasks and procedures are to be performed.
- (4) Work with the waiver service coordinator and the provider to identify and secure additional service provider orientation, training and/or continuing education within the provider's ~~provider's~~ scope of practice in order to meet the member's specific needs.
- (5) ~~Shall not~~ Not direct the provider to act in a manner that is contrary to ~~all~~ any relevant MyCare Ohio ~~HCBS-waiver program~~ requirements, medicaid rules and regulations, ~~and or~~ and the provider's policies and procedures.

- (6) Understand the incident management and reporting responsibilities of the member as set forth in rule 5160-58-05.3 or 5160-44-05 of the Administrative Code, ~~relative to incident management and reporting.~~
  - (7) Communicate to the waiver service coordinator and/or MyCare Ohio plan care manager any significant changes, as defined in rule 5160-58-01 of the Administrative Code, that may affect the provision of services or result in a need for more or fewer hours of service.
  - (8) Sign a complete and accurate timesheet or other documentation, as appropriate, to verify services have been furnished. The member shall never approve blank timesheets, or timesheets that have been completed before services have been furnished. Verification may be written or electronic at the discretion of the MyCare Ohio plan, unless otherwise required by rule 5160-1-40 of the Administrative Code.
  - (9) Participate in the recruitment, selection and dismissal of providers in collaboration with the trans-disciplinary care management team.
  - (10) In the manner specified by the waiver service coordinator, notify the provider if the member is going to miss a scheduled visit.
  - (11) Notify the waiver service coordinator if the assigned provider misses a scheduled visit.
  - (12) Notify the waiver service coordinator when any change in provider is necessary. Notification shall include the desired end date of the current provider.
  - (13) Participate in the monitoring of the performance of the provider.
- (C) If a member chooses to receive waiver services from any non-agency provider, or is exercising participant-direction over the services in paragraph (F) of rule 5160-58-04 of the Administrative Code using one or more ~~consumer~~participant-directed individual providers or ~~consumer~~participant-directed personal care providers, the following additional requirements shall apply as appropriate to the service being furnished:
- (1) In accordance with paragraph (B)(9) of this rule, members shall take a proactive role in the delivery of their MyCare Ohio ~~HCBS-waiver program~~ services. This includes, ~~but is not limited to,~~ identifying prospective providers, recruiting and training MyCare Ohio providers to furnish tasks in accordance with the member's needs and preferences, and working with the MyCare Ohio care manager or waiver service coordinator to schedule and manage the delivery of authorized MyCare Ohio ~~HCBS-waiver program~~ services.

- (2) The member shall designate a location in their home in which the member and, as appropriate, the ~~the~~ provider can safely store a copy of the member's records in a manner that protects the confidentiality of the records, and for the purpose of contributing to the continuity of the member's care.
  - (3) The member or, as appropriate, the provider shall make the member's records available upon request by the MyCare Ohio plan, the Ohio department of medicaid (ODM) and/or ODM's designee.
  - (4) The member shall not aid the provider in furnishing a service in a manner that does not comply with any rule or law that regulates the provider.
  - (5) Members who exercise participant-direction of providers under the MyCare Ohio ~~HCBS-waiver program~~ shall work with ODM's designated financial management service.
- ~~(D) The MyCare Ohio plan shall comply with all of the requirements set forth in this paragraph:~~
- ~~(1) Ensure the health and welfare of the member enrolled in the MyCare Ohio HCBS waiver program while acknowledging the member's right to make informed decisions and accept the resulting consequences that may impact the member's life.~~
  - ~~(2) Upon the member's enrollment in the MyCare Ohio HCBS waiver program, provide the member with waiver-related information, including information about the member's rights and responsibilities and opportunities for participant-direction, using communication mechanisms that are most effective for the member. The waiver service coordinator shall review these materials with the member and assist him or her to understand his or her specific responsibilities.~~
  - ~~(3) Work with the member to do the following:
    - ~~(a) Select and direct approved waiver service providers;~~
    - ~~(b) Develop the waiver service plan including service back-up plans that meet the needs of the member;~~
    - ~~(c) Exchange information with all of the member's service providers for development of the waiver service plan;~~
    - ~~(d) Identify provider orientation and training that is within the provider's scope of practice and meets the member's needs; and~~~~

- ~~(c) Assist the member with resolving conflicts between the member and provider(s) and, upon request, identify and work with the member to secure new providers when the member notifies the waiver service coordinator that a change is necessary.~~
- ~~(4) Adhere to the incident management requirements set forth in rule 5160-58-05.3 of the Administrative Code.~~
- ~~(5) Address significant changes, as defined in rule 5160-58-01 of the Administrative Code, experienced by the member that may affect the provision of services or result in a need for more or fewer hours of service.~~
- ~~(6) Document, in writing, that the member:~~
- ~~(a) Understands their specific needs;~~
  - ~~(b) Possesses the skills necessary to meet the requirements set forth in paragraph (B), (C) or (D) of this rule, as appropriate;~~
  - ~~(c) Demonstrates an understanding of his or her responsibilities pursuant to paragraphs (B) and (C) of this rule; and~~
  - ~~(d) Identifies the method by which the member will verify that services have been furnished as identified on the waiver service plan.~~
- ~~(7) Communicate with the member in a manner that protects the member's right to confidentiality.~~
- ~~(E)~~(D) If the member elects to receive services from a participant-directed provider, the waiver service coordinator shall assess the member's strengths and weaknesses (and/or, if the member has an authorized representative, the authorized representative's strengths ~~or~~and weaknesses) and ability to direct a provider. The waiver service coordinator shall allow the member to direct a provider if the waiver service coordinator determines that the member demonstrates the following:
- (1) An understanding of the elements of the service the provider shall furnish;
  - (2) An understanding of how to direct the provider; and
  - (3) An ~~understanding of, and~~ ability to; perform the responsibilities of an employer, including:
    - (a) Completion of any training ~~that~~required by ODM or the MyCare Ohio plan ~~requires~~;

- (b) Understanding which service activities are covered according to rule 5160-58-04 of the Administrative Code;
- (c) Understanding the methods for selecting and dismissing participant-directed service providers including the requirements for providers to furnish services in the MyCare Ohio waiver;
- (d) Understanding the methods for entering into written agreements with participant-directed service providers for specific activities;
- (e) Understanding the methods for training participant-directed service providers to meet the member's specific needs;
- (f) Understanding the methods for supervising and monitoring the participant-directed service ~~provider's~~provider's performance of specific activities, including written approval of the provider's time sheets;
- (g) Development of a back-up plan ~~for furnishing services~~ if a provider is unable to furnish the agreed-upon service;
- (h) Understanding the methods for filing grievances, including use of the regional and state long term care ombudsman, ~~and familiarity with how to contact the state long-term care ombudsman;~~
- (i) Familiarity with the MyCare Ohio plan grievance process and the state appeal and fair hearing request procedures;
- (j) Understanding and compliance with the State's record-retention requirements; and;
- (k) An ability to manage the participant-directed service provider when he or she furnishes a service.

~~(E)~~(E) If the waiver service coordinator determines that the member cannot meet the requirements set forth in paragraphs (C) or ~~(E)~~(D) of this rule, as appropriate, the waiver service coordinator may require the member to appoint an authorized representative to assist the member with directing services.

~~(E)~~(E) If the waiver service coordinator, in consultation with the trans-disciplinary care management team, determines that the member and/or the member's authorized representative cannot meet the requirements set forth in paragraphs (C) or ~~(E)~~(D) of this rule, ~~and~~ or the health and welfare of the member receiving services from a non-agency or participant-directed provider cannot be ensured, the waiver service coordinator may require the member to receive services from only agency providers.

The member will be afforded notice and hearing rights in accordance with division 5101:6 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 9/26/2018

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5164.02, 5166.02  
Rule Amplifies: 5164.02, 5164.91, 5166.02, 5166.16  
Prior Effective Dates: 03/01/2014