

## TO BE RESCINDED

**5160-58-03.2 MyCare Ohio waiver: member choice, control, responsibilities and participant direction.**

A member and/or an authorized representative who is acting on behalf of a member (hereinafter "member") who is enrolled in the MyCare Ohio waiver 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.

(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 pursuant to paragraph (B) of rule 5160-58-04 of the Administrative Code.

(B) A member receiving waiver services from any MyCare Ohio waiver provider shall:

- (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.
- (2) Decide who from their trans-disciplinary care management team will participate in the face-to-face development of the person-centered services plan.
- (3) Communicate to the service provider and, as appropriate, the 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 scope of practice in order to meet the member's specific needs.
- (5) Not direct the provider to act in a manner that is contrary to any relevant MyCare Ohio waiver requirements, medicaid rules and regulations, or 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.
- (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. If the individual is unable to provide the signature required to verify a service at the time of the service, the individual will submit an electronic signature or standard signature via regular mail, or otherwise provide a signature in no instance any later than at the next face-to-face visit with the provider.
  - (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 participant-directed individual providers or 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 waiver services. This includes 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 waiver services.
  - (2) The member shall designate a location in their home in which the member and, as appropriate, 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 waiver shall work with ODM's designated financial management service.
- (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 if the member has an authorized representative, the authorized representative's strengths 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 ability to perform the responsibilities of an employer, including:
    - (a) Completion of any training required by ODM or the MyCare Ohio plan;
    - (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 performance of specific activities, including written approval of the provider's time sheets;
    - (g) Development of a back-up plan 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;
  - (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) If the waiver service coordinator determines that the member cannot meet the requirements set forth in paragraph (C) or (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.
- (F) 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 paragraph (C) or (D) of this rule, 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: 1/19/2024

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Certification

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Date

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