

173-38-03

**Assisted living program (medicaid-funded component):
enrollment and reassessment of individuals.**

(A) Initial contact: To determine if an individual who applies for the medicaid-funded component of the assisted living program meets all eligibility requirements for the program under rule 5160-33-03 of the Administrative Code, ODM's administrative agency shall determine if the individual meets all medicaid financial eligibility requirements required by that rule and ODA's designee shall determine if the individual meets all non-financial eligibility required by that rule. An individual may initially contact either ODM's administrative agency or ODA's designee to begin the enrollment process. The two agencies shall coordinate processing the request for enrollment into the medicaid-funded component of the assisted living program:

(1) ODM's administrative agency: An individual who makes initial contact with ODM's administrative agency, shall apply for medicaid (unless already enrolled in medicaid) and for the medicaid-funded component of the assisted living program with the assistance of ODM's administrative agency. ODM's administrative agency shall determine if the individual meets all financial eligibility requirements and shall notify ODA's designee of the individual's application. In response, ODA's designee shall initiate contact with the individual to conduct an assessment to determine if the individual meets all non-financial eligibility requirements. ODA's designee may conduct the assessment by telephone, video conference, or in person.

(2) ODA's designee:

(a) An individual who makes initial contact with ODA's designee shall apply for medicaid (unless already enrolled in medicaid) and for the medicaid-funded component of the assisted living program with the assistance of ODA's designee. ODA's designee shall conduct an assessment to determine if the individual meets all non-financial eligibility requirements. ODA's designee may conduct the assessment by telephone, video conference, or in person.

(b) After the individual applies for the medicaid-funded component of the assisted living program, ODA or its designee shall notify the individual of the existence of the state-funded component of the assisted living program in Chapter 173-51 of the Administrative Code and offer the individual an opportunity to apply for enrollment in the state-funded component of the program.

(B) If determined ineligible: If ODM's administrative agency or ODA's designee determines the individual does not meet all eligibility requirements for the program under

rule 5160-33-03 of the Administrative Code, ODA's designee shall not enroll the individual in the program.

(1) ODM's administrative agency: If ODM's administrative agency determines the individual does not meet all financial eligibility requirements, it shall notify ODA's designee and send the individual a notice of denial and hearing rights under section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.

(2) ODA's designee: If ODA's designee determines the individual does not meet all non-financial eligibility requirements, it shall notify ODM's administrative agency and, in turn, ODM's administrative agency shall send the individual a notice of denial and hearing rights under section 5101.35 of the Revised Code and division 5101:6 of the Administrative Code.

(C) If determined eligible: If ODM's administrative agency or ODA's designee determines the individual meets all eligibility requirements for the medicaid-funded component of the assisted living program under rule 5160-33-03 of the Administrative Code, ODA's designee shall calculate the individual's medicaid waiver program enrollment date according to paragraph (C)(1) of this rule and enroll the individual into the program according to paragraph (C)(2) or (C)(3) of this rule.

(1) Medicaid waiver program enrollment date:

(a) According to paragraph (D)(1)(c) of rule 5160:1-2-03 of the Administrative Code, ODA's designee shall establish the individual's medicaid waiver program enrollment date.

(b) ODA's designee shall establish the individual's medicaid waiver program enrollment date as the latest date that all the following requirements are met:

(i) The individual's basic medicaid effective date.

(ii) The date the individual meets all level of care requirements to participate in the medicaid waiver program.

(iii) The date the individual meets all medicaid waiver program requirements listed in rule 5160-33-03 of the Administrative Code.

(iv) The date ODA's designee approves the individual's person-centered services plan, which includes at least one medicaid waiver service.

- (v) The date the individual began residing in an ODA-certified provider's RCF in one of the following:
- (a) A resident unit that complies with rule 173-39-02.16 of the Administrative Code.
 - (b) A resident unit that does not comply with rule 173-39-02.16 of the Administrative Code (a non-compliant resident unit) if all of the following requirements are met:
 - (i) The non-compliant resident unit in which the individual lives includes a bathroom with a toilet, a sink, and a shower/bathtub, all of which are in working order.
 - (ii) The provider has a plan to succeed at one of the following before the deadline in paragraph (C)(1)(b)(v)(b)(vi) of this rule:
 - (A) Bringing the non-compliant resident unit in which the individual lives into compliance with rule 173-39-02.16 of the Administrative Code and allow the individual to remain in the resident unit once it is compliant.
 - (B) Bringing another non-compliant resident unit into compliance with rule 173-39-02.16 of the Administrative Code and allow the individual to transfer to that resident unit once it is compliant.
 - (C) Transferring the individual to a resident unit that complies with rule 173-39-02.16 of the Administrative Code.
 - (iii) The provider notifies the individual of both its plan under paragraph ~~(C)(1)(b)(v)(b)(ii)~~ (C)(1)(b)(v)(b)(ii) of this rule and the risks to the individual if the provider's plan does not succeed before the deadline in paragraph (C)(1)(b)(v)(b)(vi) of this rule.
 - (iv) The individual agrees, in writing, to cooperate with the provider's plan under paragraph (C)(1)(b)(v)(b)(ii) of this rule.

- (v) The provider notifies the individual of its plan to bring the resident unit into compliance with rule 173-39-02.16 of the Administrative Code and the risks to the individual if the provider does not bring the resident unit into compliance with rule 173-39-02.16 of the Administrative Code before ODA's deadline in paragraph (C)(1)(b)(v)(b)(v) of this rule.
 - (vi) One of the following occurs no later than one hundred eighty days after the date the individual began residing in the resident unit (or, if the individual applied for the assisted living program after the individual began residing in the resident unit, the date the latest of the dates in paragraph (C)(1)(b)(ii), (C)(1)(b)(iii), or (C)(1)(b)(iv) of this rule), unless ODA gives the provider an extended period of time to bring the resident unit into compliance with rule 173-39-02.16 of the Administrative Code, which ODA may do in thirty-day increments:
 - (A) ODA determines that the resident unit in which the individual lives complies with rule 173-39-02.16 of the Administrative Code.
 - (B) The provider transfers the resident to another resident unit in the RCF that complies with rule 173-39-02.16 of the Administrative Code.
 - (c) The medicaid-funded component of the assisted living program shall not pay for any service provided to an individual before ODA's designee establishes the medicaid waiver program enrollment date according to paragraph (C)(1)(b) of this rule.
 - (d) The individual's medicaid waiver program enrollment date for the medicaid-funded component of the assisted living program may differ from the basic medicaid effective date.
- (2) Available slot: If a waiver slot in the medicaid-funded component of the assisted living program is available, and if ODA's designee has established the individual's medicaid waiver program enrollment date, ODA's designee shall enroll the individual into the program, if the individual continues to meet the eligibility requirements for the program and continues to want to enroll into the

program. ODA's designee shall not place the individual on the unified waiting list.

- (3) No available slot: If a waiver slot is not available in the medicaid-funded component of the assisted living program, ODA's designee may enroll the eligible individual when a waiver slot does become available by one of two means: the unified waiting list or the home-first component of the medicaid-funded component of the assisted living program:
 - (a) Unified waiting list: ODA's designee shall place the individual on the unified waiting list according to rule 173-44-04 of the Administrative Code, unless the individual qualifies for the home first component of the medicaid-funded component of the assisted living program, as addressed in paragraph (C)(3)(b) of this rule.
 - (b) Home first: If an individual meets all requirements for the home first component of the assisted living program in section 173.542 of the Revised Code, ODA's designee shall enroll the individual before enrolling any individual from the unified waiting list.
- (D) Reassessment: ODA's designee shall reassess each individual enrolled into the medicaid-funded component of the assisted living program no less often than one time each year after the date the individual enrolled into the program. After ODA's designee conducts each reassessment, if the individual continues to qualify for the medicaid-funded component of the program, the individual shall decide if he or she wishes to remain in the program. If the individual wishes to remain, the individual shall sign form ODA1044 as a condition of continued enrollment. ODA's designee may collect the individual's handwritten or electronic signature on the form on a date later than the date the individual agrees to continue in the program, but no later than the next reassessment of the individual.
- (E) An authorized representative may represent an individual in the enrollment and reassessment processes.
- (F) Definitions for this rule:
 - (1) "Basic medicaid effective date" means the date an individual becomes eligible to receive services under the medicaid state plan. Rule 5160:1-2-03 of the Administrative Code establishes the basic medicaid effective date.
 - (2) "Form ODA1044" means "form ODA1044, "Annual Enrollment Agreement" (March, 2014)." ODA publishes the form on www.aging.ohio.gov. It is available to the general public at no cost.

Effective: 2/7/2022

Five Year Review (FYR) Dates: 11/23/2021 and 11/30/2026

CERTIFIED ELECTRONICALLY

Certification

01/28/2022

Date

Promulgated Under: 119.03
Statutory Authority: 121.07, 173.01, 173.02, 173.54
Rule Amplifies: 173.54, 173.542, 173.55; 42 C.F.R. 441.352
Prior Effective Dates: 07/16/2006, 09/18/2009, 03/12/2011, 09/29/2011,
09/10/2012, 03/01/2014, 11/01/2018, 06/11/2020
(Emer.), 12/31/2020