

TO BE RESCINDED

5123:2-1-11 **Service and support administration.**

(A) Purpose

The purpose of this rule is to define the responsibilities of a county board for service and support administration and to establish a process for individuals who receive service and support administration to have an identified service and support administrator who is a single point of accountability.

(B) Decision-making responsibility

- (1) An individual shall be responsible for making all decisions regarding the provision of services, including requesting services and giving, refusing to give, or withdrawing consent for services, unless the individual has a guardian, in which case the guardian shall be responsible for making such decisions.
- (2) Individuals, including those with guardians, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered.
- (3) An individual who does not have a guardian or an individual's guardian may designate another person, including a member of the individual's family, to participate in the process of making decisions regarding services provided to the individual in accordance with paragraph (P) of this rule.

(C) Definitions

- (1) "Assessment" means the gathering of comprehensive information concerning each individual's preferences, personal goals, needs, and abilities, health status and other available supports.
- (2) "Alternative services" means the various programs, services, and supports, regardless of funding source, that exist as part of the MRDD service system and other service systems including, but not limited to:
 - (a) Services provided directly by the county board;
 - (b) Services by non-county board providers and funded by the county board;
 - (c) Services provided and funded outside the MRDD system; or

- (d) Services provided at the state level.
- (3) "Budgets for services" means the projected cost required to implement the ISP regardless of funding source.
- (4) "County board" means a county board of mental retardation and developmental disabilities as established under Chapter 5126. of the Revised Code.
- (5) "Circle of support" means one or more persons who agree to meet on a regular basis to help the individual to identify and accomplish personal visions or goals. The majority of persons in a circle of support are not paid to be there and are involved because they care about the individual and they have made a commitment to work together on behalf of the individual.
- (6) "Department" means the Ohio department of mental retardation and developmental disabilities as established by section 121.02 of the Revised Code.
- (7) "Direct support staff" means a person in a direct services position as defined in division (A)(2) of section 5126.281 of the Revised Code.
- (8) "Emergency intervention" is the immediate response to an unanticipated event that requires an immediate change in an individual's existing situation and/or ISP to ensure health and safety.
- (9) "Feasible alternatives" means alternatives that come with HCBS waiver enrollment as approved by the centers for medicare and medicaid services in the waiver document.
- (10) "Guardian" means the guardian of the person of a minor or an adult. If no guardian of the person has been appointed for a minor, "guardian" means either parent of a minor unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "guardian" means the parent who is the residential parent and legal custodian of the minor. If no guardian of the person has been appointed for a minor and the minor is in the legal or permanent custody of a person or government agency, "guardian" means that person or government agency.
- (11) "Habilitation management" means the following administrative oversight functions within adult day habilitation services as described in section 5126.14 of the Revised Code:

- (a) Having available supervisory personnel to monitor and ensure implementation of all interventions in accordance with every ISP implemented by the staff who work with the individuals receiving the services;
 - (b) Providing appropriate training and technical assistance for all staff who work with the individuals receiving services;
 - (c) Communicating with service and support administration staff for the purpose of coordinating activities to ensure that services are provided to individuals in accordance with ISPs and intended outcomes;
 - (d) Monitoring for unusual and major unusual incidents and cases of abuse, neglect, exploitation, or misappropriation of funds; taking immediate actions as necessary to maintain the health, safety, and welfare of the individuals receiving the services; and providing notice of unusual and major unusual incidents and suspected cases of abuse, neglect, exploitation, or misappropriation of funds to the county board; and
 - (e) Performing other administrative duties as required by state or federal law or by contracts with the county board.
- (12) "HCBS" means home and community-based services as defined in section 5126.01 of the Revised Code.
- (13) "HCBS waiver" means an HCBS waiver administered by the department in accordance with section 5111.871 of the Revised Code.
- (14) "HMG" means "Help Me Grow," an Ohio family and children first initiative directed by the Ohio department of health and coordinated on the county level by the family and children first council. HMG is Ohio's birth through two system designed to implement requirements of IDEA, Part C under 34 C.F.R. part 303. HMG creates, nourishes and maintains a coordinated, community-based infrastructure that promotes transdisciplinary, family-centered services and supports to eligible expectant parents, newborns, infants and toddlers, and their families.
- (15) "ICF/MR" means an intermediate care facility for the mentally retarded.
- (16) "Individual" means a person with mental retardation and/or developmental disabilities.

- (17) "ISP" means the individual service plan, a written description of the services, supports, and activities to be provided to an individual.
- (18) "Medicaid case management services" has the same meaning as in section 5126.01 of the Revised Code.
- (19) "MRDD" means mental retardation and developmental disabilities.
- (20) "Program management" means the following administrative oversight functions within residential services and supported living as described in section 5126.14 of the Revised Code:
- (a) Having available supervisory personnel to monitor and ensure implementation of all interventions in accordance with every ISP implemented by the staff who work with the individuals receiving the services;
 - (b) Providing appropriate training and technical assistance for all staff who work with the individuals receiving services;
 - (c) Communicating with service and support administration staff for the purpose of coordinating activities to ensure that services are provided to individuals in accordance with ISPs and intended outcomes;
 - (d) Monitoring for unusual and major unusual incidents and cases of abuse, neglect, exploitation, or misappropriation of funds; taking immediate actions as necessary to maintain the health, safety, and welfare of the individuals receiving the services; and providing notice of unusual and major unusual incidents and suspected cases of abuse, neglect, exploitation, or misappropriation of funds to the county board; and
 - (e) Performing other administrative duties as required by state or federal law or by contracts with the county board.
- (21) "ODJFS" means the Ohio department of job and family services as established by section 121.02 of the Revised Code.
- (22) "Service and support administration" has the same meaning as in section 5126.01 of the Revised Code, and pursuant to section 5126.15 of the Revised Code, includes a set of mandated functions to be provided by the county board. Service and support administration supports individuals in determining

and pursuing goals and maintains the individual as the focus while coordinating services across multiple systems.

- (23) "Service and support administrator" means a person, regardless of title, employed by or under subcontract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- (24) "Single point of accountability" means the identified service and support administrator who is responsible to an individual for the effective implementation and coordination of his or her ISP process.
- (25) "Team" means the individual's circle of support, the service and support administrator who is the single point of accountability for the individual, the person designated under paragraph (P) of this rule to provide daily representation, direct support staff, providers, licensed or certified professionals and other persons chosen by the individual to help the individual think through possibilities and decisions. The purpose of the team is to provide written and/or verbal information relevant to the development of the ISP for the individual. Team members may be invited by the individual to actively participate in the development of the ISP.

(D) Eligibility for service and support administration

- (1) A county board shall provide service and support administration to the following:
 - (a) Each individual, regardless of age, who is applying for or enrolled in an HCBS waiver;
 - (b) Each individual three years of age or older who is eligible for county board services, and requests, or a person on the individual's behalf requests pursuant to paragraph (B) of this rule, service and support administration;
 - (c) An individual residing in an ICF/MR is eligible for service and support administration related to moving the individual from the ICF/MR to a non-ICF/MR community setting.
- (2) A county board may provide service and support administration to the following:

- (a) In accordance with the service coordination requirements of 34 C.F.R. 303.23, an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303;
 - (b) An individual who is not eligible for other services of the board.
- (E) A county board shall provide service and support administration in accordance with the requirements of section 5126.15 of the Revised Code. A county board may provide service and support administration by directly employing service and support administrators or by subcontracting with qualified entities for the performance of service and support administration.
 - (1) Only a service and support administration supervisor, a service and support administrator, or a conditional status service and support administrator who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code may provide service and support administration.
 - (2) Any person who is employed to assist a service and support administration supervisor, a service and support administrator, or a conditional status service and support administrator in the performance of their duties shall have a registered service level service and support administration registration in accordance with rule 5123:2-5-02 of the Administrative Code.
 - (3) Persons employed or under subcontract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.
 - (4) The county board shall provide adequate supervision to persons employed to perform the functions of service and support administration. A conditional status service and support administrator shall perform the duties of service and support administration only under the supervision of a management employee who is a service and support administration supervisor or a professional employee who is a service and support administrator.
 - (5) Persons employed or under subcontract as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be employed by or serve in a decision-making or policy-making capacity for any other entity that provides programs or services to individuals.
- (F) Notwithstanding the requirements of paragraph (E) of this rule, persons employed or under subcontract with a county board who meet the requirements established by

the Ohio department of health for service coordinators in the HMG system may provide service and support administration in accordance with the service coordination requirements of 34 C.F.R. 303.23 to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303.

(G) Single point of accountability

- (1) A county board shall identify a service and support administrator for each individual receiving service and support administration who shall be the single point of accountability for the individual and who shall perform the following duties:
 - (a) Assess the individual's need for services in accordance with paragraph (I) of this rule;
 - (b) Develop and revise the individual's ISP in accordance with paragraph (J) of this rule;
 - (c) Establish the individual's budget for services in accordance with paragraph (K) of this rule;
 - (d) Assist the individual in choosing providers in accordance with paragraph (L) of this rule;
 - (e) Ensure that the individual's services are effectively coordinated and provided by appropriate providers in accordance with paragraph (M) of this rule;
 - (f) Monitor the implementation of the individual's ISP in accordance with paragraph (N) of this rule;
 - (g) Ensure that the individual has a designated person to provide daily representation in accordance with paragraph (P) of this rule.
- (2) The single point of accountability may perform the duties set forth in paragraph (G)(1) of this rule with the assistance of appropriate others on the individual's team. In order to receive such assistance, the single point of accountability shall:
 - (a) Maintain the responsibility to ensure that activities performed on behalf of the individual are completed in accordance with the ISP and to the

benefit and satisfaction of the individual;

- (b) Ensure that the person providing the assistance has a clear understanding of the expectations and desired outcomes of the task(s);
 - (c) Maintain contact with the person providing assistance as frequently as necessary to monitor the completion of the assigned task(s);
 - (d) Retain responsibility for all decision-making regarding service and support administration functions and the communication of any such decisions to the individual.
- (3) A person who provides assistance pursuant to paragraph (G)(2) of this rule is not required to have a registered service level service and support administration registration in accordance with rule 5123:2-5-02 of the Administrative Code unless the person is employed to provide such assistance.
- (4) A county board may assign the responsibility for eligibility determinations and quality assurance reviews to a person(s) employed by or under subcontract with the county board to provide service and support administration who does not perform other service and support administration duties. In such a case, the results and information from eligibility determinations and quality assurance reviews shall be shared in a timely manner with the individual, the individual's guardian, the person designated under paragraph (P) of this rule to provide daily representation, and the service and support administrator who is the single point of accountability for the individual in order to facilitate the coordination of services and supports.

(H) Eligibility determinations

The persons employed by or under subcontract with a county board to provide service and support administration shall establish an individual's eligibility for the services of the county board. The person performing this duty for an individual shall:

- (1) Establish the individual's eligibility for the services provided or administered by the county board in accordance with rules adopted by the department.
- (2) Explain to the individual, in conjunction with the process of recommending eligibility determination and/or assisting in making application for enrollment in an HCBS waiver or any other medicaid service, and in accordance with rules adopted by the department, the following:

- (a) Alternative services available to the individual;
 - (b) Due process and appeal rights;
 - (c) Right to choose any qualified and willing provider.
- (3) At the time the individual is being recommended for enrollment in an HCBS waiver:
- (a) Explain to the individual:
 - (i) Choice of waiver enrollment as an alternative to ICF/MR placement;
 - (ii) Feasible alternatives available upon enrollment in an HCBS waiver;
and
 - (b) Make a recommendation to ODJFS or its designee, in accordance with rule 5101:3-3-15.3 of the Administrative Code, as to whether the individual meets the criteria for an ICF/MR level of care in accordance with rule 5101:3-3-07 of the Administrative Code.

(I) Assessments

The persons employed by or under subcontract with a county board to provide service and support administration shall assess individual needs for services. The service and support administrator who is the single point of accountability for an individual shall perform this duty and shall:

- (1) After the initial request for services and at least annually thereafter, complete or coordinate and ensure the completion of assessments. The assessment process shall include all types of assessments based upon input obtained from the individual, the individual's guardian, the person designated under paragraph (P) of this rule to provide daily representation, and the individual's team.
 - (a) The information obtained shall include the individual's likes, dislikes, priorities, and desired outcomes, as well as what is important to and for the individual, including skill development, health, safety, and welfare needs, as applicable.
 - (b) The completion of assessments and evaluations by licensed or certified professionals is not required annually, but shall be done at a time

dictated by the needs of the individual.

- (2) Recommend to the department and ODJFS, the continued need for an ICF/MR level of care for an individual enrolled in an HCBS waiver for the annual redetermination in accordance with rule 5101:3-3-15.5 of the Administrative Code.

(J) ISP development

The persons employed by or under subcontract with a county board to provide service and support administration shall develop ISPs. If an ISP includes HCBS waiver services or medicaid case management services, those services shall be subject to approval by the department and ODJFS. If either department approves, reduces, denies, or terminates HCBS waiver services, or medicaid case management services included in an ISP, the service and support administrator who is the single point of accountability for the individual shall communicate with the individual to ensure compliance with paragraphs (J)(3) and (S) of this rule. That person shall also:

- (1) Ensure that the development or revision of the ISP:
 - (a) Occurs with the active participation of the individual to be served and other persons selected by the individual, and, when applicable, the provider(s) selected by the individual;
 - (b) Addresses the results of the assessment process pursuant to paragraph (I) of this rule and of the monitoring conducted pursuant to paragraph (N) of this rule;
 - (c) Focuses on the individual's strengths, interests and talents;
 - (d) Integrates all sources of supports, including alternative services, available to meet the needs and desired outcomes of the individual;
 - (e) Occurs in accordance with rules adopted by the department.
- (2) Certify by signature and date that an ISP meets the following criteria for approval. This approval shall occur prior to implementation.
 - (a) All ISPs shall:

- (i) Assist the individual to engage in meaningful, productive activities and develop community connections; and
 - (ii) Indicate the provider, the frequency, and the funding source for each service and activity; and
 - (iii) Specify which services will be coordinated among which providers and across all appropriate settings for the individual.
- (b) An ISP that includes HCBS waiver services shall:
 - (i) Meet the requirements of paragraph (J)(2)(a) of this rule;
 - (ii) Indicate the provider type; and
 - (iii) With respect to that portion of the ISP that pertains to HCBS waiver services, meet the requirements of paragraph (C)(2) of rule 5123:2-9-04 of the Administrative Code.
- (3) Review and revise the ISP as appropriate under any of the following circumstances:
 - (a) At the request of the individual or a member of the individual's team;
 - (b) Whenever the individual's assessed needs, circumstances or status changes;
 - (c) As a result of ongoing monitoring of ISP implementation, quality assurance reviews, and/or identified trends and patterns of unusual incidents or major unusual incidents; or
 - (d) With respect to HCBS waiver services and medicaid case management services, if a service is reduced, denied, or terminated by the department or ODJFS.
- (4) Provide a complete copy of the ISP to the individual or his or her guardian and a copy of relevant sections of the ISP to the individual's providers.
- (5) Provide an individual with written notification and explanation of the individual's right to a medicaid fair hearing if the ISP process results in a

recommendation for the approval, reduction, denial, or termination of an HCBS waiver service or medicaid case management service. Notice shall be provided in accordance with section 5101.35 of the Revised Code.

- (6) Provide an individual with written notification and explanation of the individual's right to use the administrative resolution of complaint process if the ISP process results in the reduction, denial, or termination of a service other than an HCBS waiver service or medicaid case management service. Such written notice and explanation shall also be provided to an individual if the ISP process results in an approved service that the individual does not want to receive, but is necessary to ensure the individual's health, safety, and welfare. Notice shall be provided in accordance with rule 5123:2-1-12 of the Administrative Code.

(K) Budget for services

The persons employed by or under subcontract with a county board to provide service and support administration shall establish budgets for services. The service and support administrator who is the single point of accountability for an individual shall establish a recommendation for and obtain approval of budgets for services based on the ISP for the individual and the individual's assessed needs and preferred ways of meeting those needs. Funding of services for individuals enrolled in an HCBS waiver shall be subject to rule 5123:2-9-06 of the Administrative Code.

(L) Provider selection

The persons employed by or under subcontract with a county board to provide service and support administration shall through objective facilitation assist individuals in choosing providers. The service and support administrator who is the single point of accountability for an individual shall perform this duty and shall:

- (1) Ensure that individuals are given the opportunity to select service providers from all willing and qualified providers in accordance with applicable state and federal laws and regulations;
- (2) Assist individuals, as necessary, to work with their provider(s) to resolve concerns involving the direct support staff assigned to work with them.

(M) Coordinating services

The persons employed by or under subcontract with a county board to provide service and support administration shall ensure that services are effectively

coordinated and provided by providers, as identified in the ISP, by facilitating communication with the individual and among providers across all settings and systems. The person who is the single point of accountability for an individual shall perform this duty and shall directly communicate with all providers of residential and day program services through their employees who are designated as responsible for habilitation management and program management and to the designated staff of all other providers including, but not limited to, transportation services providers. Relevant sections of the ISP shall be shared with providers. Such communication, as applicable, shall include, but not be limited to, the following:

- (1) ISP revisions;
- (2) Relocation plans of the individual, including information necessary to determine the health, safety, and welfare factors of the proposed living situation;
- (3) Hospitalizations, incarcerations, or other changes in individual status that result in suspension or disenrollment from services including, but not limited to, services under an HCBS waiver;
- (4) Coordination activities to ensure that services are provided to individuals in accordance with their ISPs and desired outcomes;
- (5) Results of the monitoring conducted pursuant to paragraph (N) of this rule.

(N) Monitoring ISP implementation

The persons employed by or under subcontract with a county board to provide service and support administration shall, in accordance with policies and procedures that shall be established by the board and any protocols that may be established by the department, establish and implement an ongoing system of monitoring the implementation of an individual's ISP. The service and support administrator who is the single point of accountability for an individual shall perform this duty in accordance with the following requirements:

- (1) The purpose of this monitoring shall be to verify:
 - (a) The health, safety and welfare of the individual;
 - (b) Consistent implementation of services;

- (c) Achievement of the desired outcomes for the individual as stated in the ISP; and
 - (d) That services received are those reflected in the ISP.
 - (2) Areas to be monitored, as applicable to each individual, shall include, but not be limited to, the following:
 - (a) Behavior support;
 - (b) Emergency intervention;
 - (c) Identified trends and patterns of unusual incidents and major unusual incidents and the development and implementation of prevention and/or risk management plans;
 - (d) Results of quality assurance reviews; and
 - (e) Other individual needs as determined by the assessment process conducted pursuant to paragraph (I) of this rule.
 - (3) If this monitoring indicates areas of provider non-compliance with continuing certification standards for providers certified as HCBS waiver providers, the county board shall conduct provider compliance reviews in accordance with rule 5123:2-9-08 of the Administrative Code.
- (O) Quality assurance reviews
 - (1) The persons employed by or under subcontract with a county board to provide service and support administration shall conduct quality assurance reviews. The person performing this duty for an individual shall:
 - (a) Conduct quality assurance reviews in accordance with rules adopted by the department.
 - (b) Conduct quality assurance reviews that result in outcomes at two levels:
 - (i) Identification of areas of concern and recommendations necessary to achieve desired outcomes for the individual as stated in the ISP;

- (ii) Identification of trends and patterns common to a significant number of individuals that indicate possible need for modification of an agency and/or county board system to achieve desired outcomes for individuals.
- (2) The person performing this duty shall not conduct quality assurance reviews for an individual for whom he/she is the service and support administrator who is the single point of accountability.
- (3) If a quality assurance review indicates areas of provider non-compliance with continuing certification standards for providers certified as HCBS waiver providers, the county board shall conduct provider compliance reviews in accordance with rule 5123:2-9-08 of the Administrative Code.

(P) Designated person to provide daily representation

- (1) Each individual receiving service and support administration shall have a designated person to provide daily representation who is responsible on a continuing basis for providing the individual with representation, advocacy, advice and assistance related to the day-to-day coordination of services in accordance with the ISP.
 - (a) The role of the person designated is to assist the individual to keep the service and support delivery system focused on his/her desired outcomes.
 - (b) The person designated shall be willing to interact regularly with the individual in order to maintain or develop a relationship that will allow him/her to fulfill this role.
 - (c) A designated person who is not legally responsible shall not receive any privileged information without consent of the individual.
 - (d) Neither the service and support administrator who is the single point of accountability for the individual nor any other person providing service and support administration shall be the person designated.
- (2) The service and support administrator who is the single point of accountability for an individual shall ensure that the individual has a person designated to provide daily representation and shall:

- (a) Give the individual an opportunity, at least annually, to designate such person.
 - (b) Make the designation if the individual declines to do so, taking into consideration the designated person's credibility with the individual, the person's understanding of the individual's desired outcomes, and the person's reliability. If an individual has no such person involved in his/her life, actions shall be specified in the ISP that will lead to the development of a circle of support for the individual.
 - (c) Document the person designated, by name, in the individual's ISP.
 - (d) Permit an individual to change at any time the person designated to provide daily representation.
- (3) Paragraphs (P)(1) and (P)(2) of this rule are not intended to prevent an individual from representing himself or herself or advocating on behalf of himself or herself.

(Q) Emergency intervention

The county board shall, in coordination with the provision of service and support administration, make an on-call emergency response system available twenty-four-hours per day, seven days per week. Persons who are available for the on-call emergency response system shall:

- (1) Provide emergency intervention directly or through immediate linkage with the service and support administrator who is the single point of accountability for the individual or primary provider.
- (2) Be trained and have the skills to identify the problem; determine what immediate response is needed to alleviate the emergency and ensure health and safety; and identify and contact the person(s) to take the needed action.
- (3) Notify the provider(s) and the service and support administrator(s) who is the single point of accountability for the individual(s) to assure adequate follow-up. The county board's investigative agent under section 5126.221 of the Revised Code shall also be notified as determined necessary by the nature of the emergency.
- (4) Document the emergency in accordance with county board procedures.

(R) Records

Records shall be maintained on individuals receiving service and support administration and shall include, at a minimum, the following:

- (1) Identifying data;
- (2) Information identifying guardianship, trusteeship, or protectorship;
- (3) Date of request for services from the county board;
- (4) Evidence of eligibility for county board services;
- (5) Assessment information relevant to the request for services and the planning process for supports and services;
- (6) Current ISP;
- (7) Current budget for support and services;
- (8) Documentation of provider selection process;
- (9) Quality assurance review summary reports;
- (10) Documentation of unusual incidents;
- (11) Major unusual incident investigation summary reports;
- (12) The name of the service and support administrator who is the single point of accountability for the individual;
- (13) The name of the person designated to provide daily representation;
- (14) Emergency information;
- (15) Personal financial information, when appropriate;
- (16) Release of information and consent forms;

(17) Case notes which include coordination of services and monitoring activities.

(S) Due process

Due process shall be afforded to each individual receiving service and support administration pursuant to either rule 5123:2-1-12 of the Administrative Code for services other than HCBS waiver services and medicaid case management services or section 5101.35 of the Revised Code for HCBS waiver services and medicaid case management services.

(T) Department monitoring and technical assistance

The department shall monitor compliance with this rule by county boards and their subcontract agencies in accordance with sections 5123.044 and 5126.055 of the Revised Code. Technical support, as determined necessary by the department, shall be provided upon request and through regional and statewide trainings.

(U) ODJFS monitoring of medicaid case management services

For all medicaid eligible recipients, ODJFS retains final authority to monitor the provision of medicaid case management services in accordance with rule 5101:3-48-01 of the Administrative Code.

Effective:

R.C. 119.032 review dates: 08/22/2013

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5123.04, 5126.05, 5126.08, section 75.04 of House Bill 94 of the 124th General Assembly
Rule Amplifies: 5123.04, 5126.041, 5126.05, 5126.055, 5126.08, 5126.15, section 75.04 of House Bill 94 of the 124th General Assembly
Prior Effective Dates: 08/23/1985 (Emer.), 11/22/1985 (Emer.), 01/18/1986, 03/11/1988, 03/03/1990, 11/18/1995, 07/01/2005