

POLICY 1900

Home and Community Based Waiver Waiting List

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1900 Home and Community Based Waiver Waiting List

1900.00 Purpose

The purpose of this Policy is to set forth a process for the Ohio Department of Developmental Disabilities (ODDD) and the county board of developmental disabilities to define requirements for the Home and Community Based Waiver Waiting List.

1900.01 Applicability

This Policy applies to individuals who are seeking a Home and Community-Based Waiver to support their needs that cannot be otherwise supported by local community resources.

1900.02 Definitions

- (1) "Adult" means an individual who is eighteen years of age or older.
- (2) "Alternative services" means the various programs, funding mechanisms, services, and supports, other than home and community-based services, that exist as part of the developmental disabilities service system and other service systems.

"Alternative services" includes, but is not limited to, services offered through Ohio's Medicaid state plan such as home health services and services available at an intermediate care facility for individuals with intellectual disabilities.
- (3) "Community-based alternative services" means alternative services in a setting other than a hospital, an intermediate care facility for individuals with intellectual disabilities, or a nursing facility. Community-based alternative services includes but is not limited to services provided through a community mental health agency or

public children services agency or services arranged by county family and children first council.

- (4) "County board" means a county board of developmental disabilities.
- (5) "Current need" means an unmet need for home and community-based services within twelve months, as determined by a county board based upon assessment of the individual using the waiting list assessment tool. Situations that give rise to current need include:
 - (a) An individual is likely to be at risk of substantial harm due to:
 - (i) The primary caregiver's declining or chronic physical or psychiatric condition that significantly limits the primary caregiver's ability to care for the individual;
 - (ii) Insufficient availability of caregivers to provide necessary supports to the individual
 - (iii) The individual's declining skills resulting from a lack of supports.
 - (b) An individual has an ongoing need for intermittent supports, in order to sustain existing caregivers and maintain the viability of the individual's current living arrangement because the individual requires more care than typically required for someone without developmental disabilities of the same age. This may include supports needed to supplement care provided by other caregivers for an individual in the custody of a public children services agency.
 - (c) An individual has an ongoing need for continuous supports to address significant behavioral, physical care, or medical needs.

- (d) An individual is aging out of or being emancipated from children's services and has needs that cannot be addressed through community-based alternative services.
 - (e) An individual requires waiver funding for adult day services or employment related supports that are not otherwise available as vocational rehabilitation services funded under section 110 of the Rehabilitation Act of 1973, 29 U.S.C. 730, or as special education or related services as those terms are defined in section 602 of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1401.
 - (f) An individual is living in an intermediate care facility for individuals with intellectual disabilities or a nursing facility and has requested assistance to move from the facility to a community setting.
- (6) "Department" means the Ohio department of developmental disabilities.
- (7) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.
- (8) "Immediate need" means a situation that creates a risk of substantial harm to an individual, caregiver, or another person if action is not taken within thirty calendar days to reduce the risk. Situations that give rise to immediate need include:
- (a) A resident of an intermediate care facility for individuals with intellectual disabilities has received notice of termination of services in accordance with rule 5123:2-3-05 of the Administrative Code.
 - (b) A resident of a nursing facility has received thirty-day notice of intent to discharge in accordance with Chapter 5160-3 of the Administrative Code

- (c) A resident of a nursing facility has received an adverse determination in accordance with rule 5123:14-01 of the Administrative Code.
- (d) An adult is losing a primary caregiver due to the primary caregiver's declining or chronic physical or psychiatric condition or due to other unforeseen circumstances (such as military deployment or incarceration) that significantly limit the primary caregiver's ability to care for the individual when:
 - (i) Impending loss of the caregiver creates a risk of substantial harm to the individual; and
 - (ii) There are no other caregivers available to provide necessary supports to the individual.
- (e) An individual is engaging in documented behavior that creates a risk of substantial harm to the individual, caregiver, or another person.
- (f) There is impending risk of substantial harm to the individual or caregiver as a result of:
 - (i) The individual's significant care needs (i.e., bathing, lifting, high demand, or twenty-four-hour care); or
 - (ii) The individual's significant or life-threatening medical needs.
- (g) There is reason to believe an adult has been subjected to abuse, neglect, or exploitation and requires additional supports to reduce a risk of substantial harm to the individual.
- (9) "Individual" means a person with a developmental disability.

- (10) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- (11) "Locally-funded home and community-based services waiver" means the county board pays the entire nonfederal share of Medicaid expenditures in accordance with sections 5126.059 and 5126.0510 of the Revised Code.
- (12) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.
- (13) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.
- (14) "State-funded home and community-based services waiver" means the department pays, in whole or in part, the nonfederal share of Medicaid expenditures associated with an individual's enrollment in the waiver.
- (15) "Status date" means the date on which the individual is determined to have a current need based on completion of an assessment of the individual using the waiting list assessment tool.
- (16) "Waiting list assessment tool" means a component of the waiting list management system, which will be used for purposes of making a determination of an individual's eligibility to be added to the waiting list for home and community-based services and administered by persons who successfully complete training developed by the department.
- (17) "Waiting list for home and community-based services" means the list established by county boards and maintained in the department's waiting list management system which includes the name, status date and criteria for current need by

which an individual is eligible based on administration of the waiting list assessment tool, for each individual determined to have a current need

- (18) "Waiting list management system" means the web-based information technology platform created and maintained by the department for managing the waiting list for home and community-based services. The waiting list management system includes department-validated information technology platforms maintained by county boards to manage, store, and electronically exchange information with the department's information technology platform. A county board will use the waiting list management system to capture administration of the waiting list assessment tool and to transmit all completed waiting list assessment tools to the department.

1900.03 Wait List Assessment Requests

- (1) The county board administers the initial waiting list assessment tool to an individual when the individual, the individual's guardian, or a member of the individual's family:
- a. Requests the county board administer the waiting list assessment tool;
 - b. Requests the individual be enrolled in a home and community-based services waiver or placed on the waiting lists for home and community-based services; or
 - c. Identifies an unmet need.
- (2) The county board re-administers the waiting list assessment tool to an individual when the individual, the individual's guardian, or a member of the individual's family identifies a change in circumstance that may result in the individual having a current or immediate need.

(3) When cause for administering the waiting list assessment tool is identified in the aforementioned steps (1) and (2) under Wait List Assessment Requests, the county board will:

- a. Explain to the individual, the individual's guardian (which may include a public children services agency), or the individual's family member, as applicable, the waiting list assessment tool process and timeframes set forth in rule 5123-9-04.
- b. Identify services available to meet the individual's needs while the waiting list assessment tool is being completed.
- c. Assess the individual using the waiting list assessment tool.
 - i. The waiting list assessment tool will be initiated by conducting an interview with the individual and the individual's guardian, as applicable, within fifteen calendar days of the date the assessment was requested. The county board will document extenuating circumstances related to the individual that delay conduct of the interview beyond fifteen days of the request.
 - ii. The waiting list assessment tool will be completed and approved within forty-five calendar days of the date the interview with the individual and/or individual's guardian is conducted. The county board will document extenuating circumstances related to the individual that delay completion of the waiting list assessment tool.

(4) Results of the wait list assessment are communicated to the individual and/or their guardian in writing within ten calendar days of completion and approval.

- a. Included with the notice is the outcome of the assessment (immediate need, current need, or no need identified), copy of the wait list assessment tool, explanation of due process rights and due process form.
- b. When it is determined the individual does not require enrollment on a waiver or placement on the waiting list for home and community-based services because community-based alternative services are available to meet the individual's assessed needs, the notice will include:
 - i. A list of the individual's assessed needs.
 - ii. Specific community-based alternative services that address each assessed need.
 - iii. The date by which the county board will follow up with the individual/guardian to determine if the suggested community-based alternative services have been accessed.
 - iv. Contact information for a person at the county board who can assist in identifying and accessing community-based alternative services. Including person's name, title, telephone number and email address.

1900.04 Waiver Waiting List

- (1) The county board places an individual's name on the waiting list for home and community-based services based on the outcome of the waiting list assessment tool when the individual:
 - (a) Has been diagnosed with a severe, chronic disability that is:

- i. Attributable to a mental or physical impairment or combination of mental and physical impairments, other than an impairment caused solely by mental illness;
 - ii. Manifested before the individual is age twenty-two; and
 - iii. Likely to continue indefinitely; and
 - (b) Has a current need which cannot be met by community-based alternatives services in the county where the individual resides. This includes situations in which an individual has a current need despite the individual's enrollment in a home and community-based services waiver.
 - (c) For individuals placed on the waiting list for a home and community-based services waiver, their placement on the wait list is based on the weighted results of the answers provided on the assessment. The order for enrolling individuals in locally funded HCBS waivers will be as per the guidelines in OAC 5123-9-04.
- (2) Individuals will not be placed on the waiting list for home and community-based services by the county board when the individual:
- (a) Is a child who is subject to a determination under section 121.38 of the Revised Code and requires home and community-based services; or
 - (b) Has an immediate need, in which case the county board will take action necessary to ensure the immediate need is met. The county board will provide the individual or the individual's guardian (which may include a public children services agency), as applicable, with the option of having the individual's needs met in an intermediate care facility for individuals

with intellectual disabilities or through community-based alternative services. Once an individual or individual's guardian chooses the preferred setting option, the county board will take action to ensure the individual's immediate need is met, including by enrollment in a home and community-based services waiver, if necessary. Such action may also include assisting the individual or their guardian, as applicable, in identifying and accessing alternative services that are available to meet the individual's needs.

- (3) When an individual is placed onto the waiver waiting list, the county board will:
 - (a) Record individual's status date in the waiting list management system:
 - (b) Notify the individual or the individual's guardian, as applicable, in writing that the individual's name has been placed on the waiting list for home and community-based services.
 - (c) Provide contact information to the individual or the individual's guardian, as applicable, for a person at the county board who can assist in identifying and accessing alternative services that address, to the extent possible, the individual's needs. Including person's name, title, telephone number and email address.
- (4) Annually, a county board will:
 - (a) Review the waiting list assessment tool and service needs of each individual whose name is included on the waiting list for home and community-based services with the individual and the individual's guardian, as applicable; and

- (b) Assist the individual or the individual's guardian, as applicable, in identifying and accessing alternative services.
- (5) Under any circumstances, when a county board determines an individual's status has changed with regard to having an immediate and/or having a current need or an individual's status date has changed, the county board will update the individual's record in the waiting list management system.

1900.05 Enrolling on Home and Community-Based Waiver

- (1) The order for enrolling individuals in locally funded home and community-based waivers is selected by the county board in the following manner:
 - (a) Individuals with immediate need who require waiver funding to address the immediate need.
 - (b) Individuals who have met multiple criteria for current need for twelve or more consecutive months and were not offered enrollment in a home and community-based services waiver in the prior calendar year. When two or more individuals meet the same number of criteria for current need, the individual with the earliest status date will be selected for enrollment.
 - (c) Individuals who have met multiple criteria for current need for less than twelve consecutive months. When two or more individuals meet the same number of criteria for current need, the individual with the earliest status date will be selected for enrollment.

- (d) Individuals who meet a single criterion for current need. When two or more individuals meet a single criterion for current need, the individual with the earliest status date will be selected for enrollment.
- (2) Individuals with immediate and current needs may be enrolled in locally-funded home and community-based services waivers concurrently.
- (3) Meeting the criteria for immediate and/or current need does not guarantee enrollment in a locally-funded home and community-based services waiver within a specific timeframe.
- (4) Upon an individual being identified as next for a Home and Community-Based Waiver allocation, the county board determines the individual's eligibility for enrollment in a waiver. Once the person is determined as eligible, the county board determines which type of locally funded waiver is sufficient to meet the individual's needs in the most cost-effective manner. The individual (or their guardian) is notified by a phone call which waiver they're being offered.
- (5) A county board will respond to the department within ten calendar days when the department requests additional information regarding an individual on the waiting list who was passed over for enrollment in a locally-funded home and community-based services waiver despite a higher placement on the waiting list. The county board will collaborate with the department to address any impediments to meeting the individual's needs.
- (6) The order for enrolling individuals on state-funded home and community-based waivers is determined by the department. Meeting the criteria for immediate or

current need does not guarantee enrollment in state-funded home and community-based waiver within a specific timeframe.

1900.06 Due Process

- (1) Due Process is given to each individual or their guardian upon initial notification of the wait list assessment results and upon allocation of HCBS for the individual (in accordance with section 5160.31 of the Revised Code and Chapters 5101:6-1 to 5101:6-9 of the Administrative Code) by an action of CCBDD related to:
 - (a) The approval, denial, withholding, reduction, suspension, or termination of a service funded by the state Medicaid program.
 - (b) Placement on, denial of placement on, or removal from the waiting list HCBS of individuals waiting for HCBS; or,
 - (c) A dispute regarding an individual's date of request or status date.

1900.07 Status Changes that Impact Waiting List

- (1) Under the following circumstances the Medicaid manager or designee may remove an individual from the waiting list for HCBS:
 - (a) When CCBDD determines that the individual no longer has a condition:
 - (i) Attributable to a mental or physical impairment or combination of mental and physical impairments, other than an impairment caused solely by mental illness.
 - (ii) Manifested before the individual is age twenty-two; and
 - (iii) Likely to continue indefinitely; and

- (iv) Has a current need which cannot be met by community-based alternative services in the county where the individual resides (including a situation in which an individual has a current need despite the individual's enrollment in a HCBS waiver).
- (b) Individual no longer has a current need
- (c) Upon request of the individual or the individual's guardian, as applicable
- (d) If the individual or the individual's guardian, as applicable, refuses to secure Medicaid eligibility
- (e) If the individual or the individual's guardian, as applicable, refuses or withdraws consent for service and support administration
- (f) Upon enrollment of the individual in a HCBS waiver that meets the individual's needs
- (g) If the individual or the individual's guardian, as applicable, declines enrollment in a HCBS waiver or community-based alternative services that are sufficient to meet the individual's needs
- (h) If the individual or the individual's guardian, as applicable, fails to respond to attempts by the Medicaid Manager or designee to contact the individual or the individual's guardian by at least two different methods to the last known address of the individual or the individual's guardian, as applicable – electronic mail, traceable delivery service, or personal service.
- (i) When the Medicaid Manager or designee determines the individual does not have a developmental disabilities level of care in accordance with rule 5123-8-01 of the Administrative Code.

- (j) When the individual is no longer a resident of Ohio, or
 - (k) Upon the individual's death.
- (2) When an individual on the waiting list for HCBS moves from another county to Clermont, the Medicaid Manager or designee reviews the individual's waiting list assessment tool within 90 calendar days of receiving notice.
- (a) The Medicaid Manager or designee updates the individual's county of residence in DODD's waiting list management system without changing the status date assigned by the previous county board.
 - (b) Medicaid Manager or designee determines that the individual has a current need which can be met by community-based alternative services in the receiving county, the Community Services and Support – SSA is notified by email with the request to assist the individual or the individual's guardian, as applicable, in identifying and accessing those services.

1900.08 Administrative Review and Allocation of HCBS Waivers

- (1) CCBDD will, in conjunction with development of its plan described in section 5126.054 of the Revised Code and its strategic plan described in rule 5123-4-01 of the Administrative Code, identify how many individuals the county board plans to enroll in each type of locally funded HCBS waiver during each calendar year. The number of HCBS waivers is based on projected funds available to the county board to pay the nonfederal share of the Medicaid expenditures and the assessed needs of the county's residents on the waiting list for home and community-based

services. This information will be made available to any interested person upon request.

- (2) Monthly, the Medicaid Waiver Team meets to review the current waiting list and allocate waivers based on the next 90-day cycle of enrollment.
- (3) Once an individual is allocated a HCBS waiver, and the individual accepts the waiver, a Waiver SSA is assigned. The Medicaid Manager works with the identified Waiver SSA assigned to complete the Waiver Application for HCBS enrollment within 90-days of the individual's waiver allocation.