**Provider Compliance Work Group Discussion—revised 12.14.17**

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| **Area of Discussion:** | **Providers self- reporting/struggling**  **(Proactive Supports)** | **MUI** | **Fraud** | **Regular Compliance Review** | **Special Compliance Review** | **Certification** | **Licensed Settings** |
| Current rule reference in place to follow | Can request technical assistance? Is there a formal process or instructions for this? | 5123:2-17-02 Addressing major unusual incidents and unusual incidents to ensure health, welfare, and continuous quality improvement | 5160-45-06 Ohio department of medicaid (ODM) -administered waiver program: structural reviews of providers and investigation of provider occurrences  **ORC 2913.40 Medicaid fraud**  To report fraud to DODD:   * Call 614-466-6670 * Send an email to * [reportfraud@dodd.ohio.gov](mailto:reportfraud@dodd.ohio.gov).   You also may make an anonymous complaint to the [Ohio Attorney General's Office Health Care Fraud Section](http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud):   * Call 800-282-0515 * [Submit a report online](http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud/Report-Medicaid-Fraud) * Fax 877-527-1305 * Send documentation to: Medicaid Intake Officer Office of the Attorney General 150 E. Gay St., 17th Floor Columbus, OH 43215 Fax: 877-527-1305 | 5123:2-2-04 Compliance reviews of certified providers | 5123:2-2-04 Compliance reviews of certified providers | 5160-1-17.6 Termination and denial of provider agreement  5123:2-9-30 Home and community-based services waivers - homemaker/personal care under the individual options and level one waivers.  5123:2-2-01 Provider certification | 5123:2-3-07 Licensed residential facilities - immediate removal of residents. |
| **Current roles per rule or practice** |  |  |  |  |  |  |  |
| **Current Provider role** | -Seek assistance from Provider Representatives-membership with OPRA, OHCA, Waiver Network, VFA, etc…  -Seek assistance from peer providers  -Put systems in place to ensure compliance (POC, etc.) | -ICF and Waiver-Report to County Board MUI, law enforcement, guardian per rule  -ICF-complete investigation per protocol with full report  -Immediate actions protect health and safety and prevent recurrence (including removal of staff from direct care, etc.) | -implement systems to monitor accurate billing of any service  -verification of units provided meeting doc requirements  -report any allegations of fraud | -Respond to all correspondence and gather all documentation requests for compliance reviewer  -Full cooperation with compliance review  -Respond within 14 days of compliance review summary with appeal or plan of correction meeting protocol  -Implement and monitor to ensure POC completed  -Follow 119 hearing protocol if suspension or revocation-comply with adjudication order within 30 days | -Respond to all correspondence and gather all documentation requests for compliance reviewer  -Full cooperation with compliance review  -Respond within 14 days of compliance review summary with appeal or plan of correction meeting protocol  -Implement and monitor to ensure POC completed | -Responsible to comply and show evidence of meeting all requirements outlined in this rule; qualifications, training standards, policy and procedure, internal systems for compliance, insurance, compliance with work comp, unemployment, payroll and other taxes, wage and hour, etc…, substitute coverage,  -submit initial and renewal applications and supporting evidence per deadlines in rule | If MUI, Report to County Board MUI, law enforcement, guardian per rule  -ICF-complete investigation per protocol with full report  -Immediate actions to protect health and safety and prevent recurrence (including removal of staff from direct care, etc.)  -Cooperate with any and all investigations and recommendations |
| **Current County Board role** | Some counties have provider support position  Ensuring person centered planning; path to employment-ensuring supports are in place considering needed resources, staffing, professional treatments, MH and behavioral supports, transportation, medical supports, etc….  Collaborating with team to build provider capacity and support especially with challenging behaviors, fragile medical supports, and those who have had a series of multiple provider changes in short periods of time | -Complete Investigation protocol per rule with full report  -ITS entry for report to DODD  -Ensure immediate actions and prevention plan in place | -Report any allegations of fraud  -Monitor billing and service documentation through QA systems  To report fraud to DODD:   * Call 614-466-6670 * Send an email to * [reportfraud@dodd.ohio.gov](mailto:reportfraud@dodd.ohio.gov) | -Follow protocol for all compliance reviews  -Respond to all correspondence and gather documentation requests for compliance reviewer  -NOTE: some reviews are completed by COG or county reviewers (if so must do all compliance review, reporting, and plan of correction approval or disapproval)  -IF SUSPENSION/REVOCATION notice received, will notify individuals and guardians of the provider suspension | -Follow protocol for all compliance reviews  -Respond to all correspondence and gather documentation requests for compliance reviewer  -NOTE: some reviews are completed by COG or county reviewers (if so must do all compliance review, reporting, and plan of correction approval or disapproval)  -IF SUSPENSION/REVOCATION notice received, will notify individuals and guardians of the provider suspension | -Provide oversight and monitoring QA | -When county board, on basis of its investigation of MUI determines physical or psychological health or safety of a resident of a residential facility, the county board shall contact the director to request immediate removal.  -Complete investigation and report, if directed by DODD  -After county board receives order from Director to remove resident, they shall attempt to notify individual prior to actual removal  -County board responsible for removal-arranging transportation, placement and services in least restrictive environment  -ensure implementation of person centered plan |
| **Current DODD role** | Technical assistance in some areas?  DODD guidance documents and checklists  Monday Memos-communication  Webinars | -DODD oversight and review all MUIS- close those specifically listed in rule  -may reopen any investigation | -Report any allegations of fraud  -Claims reviews  -receive Fraud allegations per 466-6670 and email [reportfraud@dodd.ohio.gov](mailto:reportfraud@dodd.ohio.gov)  Make complaint to the [Ohio Attorney General's Office Health Care Fraud Section](http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud):Call 800-282-0515; [Submit a report online](http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud/Report-Medicaid-Fraud); Fax 877-527-1305; Send documentation to: Medicaid Intake Officer Office of the Attorney General 150 E. Gay St., 17th Floor Columbus, OH 43215 Fax: 877-527-1305 | -Develop protocol for all compliance reviews  -Completion of compliance review with full report of citations with explanation, process for Plan of correction, and explanation of due process to provider  -Review and allow/disallow appeals and/or approve/disapprove POC and further follow up with provider to ensure compliance  -Follow-up visit, if applicable, to ensure POC is implemented with provider  -Initiate certification suspensions or revocations  -Send notice to county board, and Ohio office of medical assistance | -Develop protocol for all compliance reviews  -Completion of compliance review with full report of citations with explanation, process for Plan of correction, and explanation of due process to provider  -Review and allow/disallow appeals and/or approve/disapprove POC and further follow up with provider to ensure compliance  -Follow-up visit, if applicable, to ensure POC is implemented with provider  -Initiate certification suspensions or revocations | -Reviews provider applications and renewals; | When Director determines that conditions at the facility present an immediate danger of physical or psychological harm to resident and all other available interventions have proved ineffective or infeasible, he or she shall issue order for immediate removal  -Dept will investigate the allegation or request county board to investigate the allegation with report  -Assist County with placement when needed  -The Director may recommend suspension or revocation 5123: 2-3-06 or a transfer or termination of services (cannot fill vacancy)  -Upon written receipt of information from county board or others indicating the circumstances that led to removal no longer exist, may permit resident to return to facility. |
| **Current ODM or ODH involvement** | Technical assistance in some areas? | ODH for ICF may complete complaint investigation | -Claims reviews | -Survey ICF (ODH) compliance with standards | -Survey ICF (ODH) compliance with standards | ODM can propose termination or denial of provider agreement at any time it is determined that continuation or assumption of provider status is not in the best interest of recipients or the state of Ohio.  -not billed 2 years or longer  -owner/provider indicted –guilty-convicted of criminal offense  -provider false representations on applications  -negligent performance of professional services  -failed to conform with standards of care  -failure to submit cost reports  -false statements, information-records or documentation  -not correcting deficiencies  -not abiding by provider agreement  -violation of Rehab or Civil Rights act  -health and welfare or fiscal program integrity  -reasonable care and monitoring of medications; selling furnishes drugs illegally  -DEA suspension or revocation  -billing fraud  -fails to notify ODM of an changes in licensure, certification, etc…  -fails to pay overpayment  -fraud, theft, embezzlement, etc..  -not responsive to ODM notices  -failed to revalidate  -any reason permitted by law |  |
| **Current Attorney General**  **involvement** |  | MUIs may be referred to the AG office for investigation-waste, fraud, abuse, neglect for further actions; referrals to courts, criminal actions, etc… | Completes Medicaid Fraud complaint investigations- referrals to courts, law enforcement, criminal actions, etc…  (Take complaints from hotline, online, by fax, and through mail.) | Hearings for suspension, revocation | Hearings for suspension, revocation | Hearings for suspension, denial, revocation |  |
| **Current Stakeholder role**  **(Individual and family)** | Directing Person centered planning and services | -participate in investigation as appropriate |  | -When suspension/revocation-will receive notice-provider search | -When suspension/revocation-will receive notice-provider search |  |  |
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| Current further authority or means for higher scrutiny or referral (already in place) | Referral to OPSR | -can refer to DODD for review-referral OPSR  -referral for Director’s alert  -can refer to ODH ICF | Consequences for Medicaid fraud convictions may include: Federal exclusion from participating in federally funded health care programs. For more information, please visit the [federal Office of the Inspector General's website](http://oig.hhs.gov/), Licensure/Certification revocation or suspension; Attorney fees; Investigative costs | Certification suspensions or revocations for:  -substantial violation of applicable requirements which present risk to individual’s health and safety  -pattern of non-compliance with applicable requirements  -licensed provider had license revoked from licensing authority  -failure to cooperate with compliance review process  -other good cause, including misfeasance, malfeasance, nonfeasance, substantiated abuse or neglect, financial irresponsibility, or other conduct injurious to individuals being served.  -Medicaid fraud conviction  -Placement on abuser registry | Certification suspensions or revocations for:  -substantial violation of applicable requirements which present risk to individual’s health and safety  -pattern of non-compliance with applicable requirements  -licensed provider had license revoked from licensing authority  -failure to cooperate with compliance review process  -other good cause, including misfeasance, malfeasance, nonfeasance, substantiated abuse or neglect, financial irresponsibility, or other conduct injurious to individuals being served.  -Medicaid fraud conviction  -Placement on abuser registry | -Failure to submit renewal documentation will result in lapse of certification-provider not provide or submit claims  (M) Denial, suspension, or revocation of certification  -Dept. may deny application based on failure to comply with any requirements or other standards/assurances  **Certification suspensions or revocations for:**  - misfeasance, malfeasance, nonfeasance, substantiated abuse or neglect, financial irresponsibility, or other conduct injurious to individuals being served.  -Failure to meet requirements of this rule  -Failure to comply with applicable rules  -Failure to submit claims for twelve consecutive months | The Director may recommend suspension or revocation 5123: 2-3-06 or a transfer or termination of services (cannot fill vacancy)  -Upon written receipt of information from county board or others indicating the circumstances that led to removal no longer exist, may permit resident to return to facility. |
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| Summary Suspension Discussion: |  |  |  |  |  |  |  |
| Areas to consider related to summary suspension for each category | Many factors to consider: workforce crisis-staffing; plan authorization; team dynamic; increased challenges with MH/Intense behavioral concerns-how do we establish proactive measures to support and ensure we have all done all we can  Need team supports  Need mock survey teams-peers  Need peer to peer networking  Back up plans for CEO and major leadership changes, etc… | What if CEO/owner is the PPI?  What if CEO/owner/agency is not complying with investigation or ensuring immediate health safety with MUI?  How will this tie into the summary suspension-how would an MUI be referred, when etc.?  How do we ensure that we don’t affect the MUI investigation process? | Licensure/Certification revocation or suspension already is defined as consequence through the results of investigations of Medicaid Fraud-terminate provider agreement, prohibit billing etc….\*\*\*see yellow highlights | Timelines  Delays in process leading to extended time for provider to continue to provide services  Free choice of provider-some individuals and families still want to stay with provider  Probate court process or not? | Timelines  Delays in process leading to extended time for provider to continue to provide services  Free choice of provider-some individuals and families still want to stay with provider  Probate court process or not? |  | CURRENTLY--When Director determines that conditions at the facility present an immediate danger of physical or psychological harm to resident and all other available interventions have proved ineffective or infeasible, he or she shall issue order for immediate removal |

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| Options for review of investigation related to summary suspension: | |
| 1. Director decision |  |
| 1. Committee review with recommendation to Director | Consider:   1. Who on committee? Equal representation, conflict of interests?, pool of reps from each vs. one appointed, etc.. 2. Timeline for committee response to review of the investigation 3. Quorum |
| 1. Need to add to rule-how suspension could be lifted, or if it can…parameters etc…. |  |