DRAFT - NOT FOR FILING

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

(A) Purpose

The purpose of this rule is to define the responsibilities of a county board of developmental disabilities 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 the primary point of coordination.

(B) Definitions

(1) "Alternative services" has the same meaning as in rule 5123:2-1-08 of the Administrative Code.

(2) "Assessment" means the gathering of comprehensive information concerning the individual's preferences, personal goals, needs, interests, abilities, health status, and other available supports.

(3) "Budget for services" means the projected cost of implementing the individual service plan regardless of funding source.

(4) "County board" means a county board of developmental disabilities.

(5) "Department" means the Ohio department of developmental disabilities.

(6) "Home and community-based services waiver" means a medicaid waiver administered by the department in accordance with section 5111.871 of the Revised Code.

(7) "Individual" means a person with a developmental disability.

(8) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

(9) "Intermediate care facility" means an intermediate care facility for individuals with intellectual disabilities as defined in rule 5123:2-7-01 of the Administrative Code.

(10) "Natural supports" means the personal associations and relationships typically developed in the community that enhance the quality of life for individuals. Natural supports may include family members, friends, neighbors, and others in the community or organizations that serve the general public who provide voluntary support to help an individual achieve agreed upon outcomes through the individual service plan development.

(11) "Person-centered planning" means an ongoing process directed by an individual and others chosen by the individual to identify the individual's unique strengths, interests, abilities, preferences, resources, and desired outcomes as they relate to the individual's service needs.

(12) "Primary point of coordination" means the identified service and support administrator who is responsible to an individual for the effective development, implementation, and coordination of the individual service plan.

(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) "Team" means the individual's guardian or adult whom the individual has identified, the service and support administrator, direct support staff, providers, licensed or certified professionals, and other persons chosen by the individual to help the individual consider possibilities and make decisions. The team's core responsibility is to support the individual in directing development of his or her individual service plan.

~~(D)~~(C) Decision-making responsibility

(1) Individuals, including individuals who have been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, have the right to participate in decisions that affect their lives and to have their needs, desires, and preferences considered.

(2) An individual who is his or her own guardian shall make decisions regarding receipt of a service or participation in a program provided for or funded under Chapter 5123. or 5126. of the Revised Code. The individual may obtain support and guidance from an adult; doing so does not affect the right of the individual to make decisions.

(3) An individual who is his or her own guardian may authorize an adult (who may be referred to as a "chosen representative") to make a decision described in paragraph ~~(D)(2)~~ (C)(2) of this rule on behalf of the individual as long as the adult does not have a financial interest in the decision. The authorization shall be made in writing.

(4) When a guardian has been appointed for an individual, the guardian shall make a decision described in paragraph ~~(D)(2)~~ (C)(2) of this rule on behalf of the individual within the scope of the guardian's authority. This paragraph shall not be construed to require appointment of a guardian.

(5) An adult or guardian who makes a decision pursuant to paragraph ~~(D)(3) or (D)(4)~~ (C)(3) or (C)(4) of this rule shall make a decision that is in the best interest of the individual on whose behalf the decision is made and that is consistent with the individual's needs, desires, and preferences.

~~(E)~~(D) Provision of service and support administration

(1) A county board shall provide service and support administration to:

(a) An individual, regardless of age or eligibility for county board services, who is applying for or enrolled in a home and community-based services waiver;

(b) An 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 ~~(D)~~ (C) of this rule, service and support administration; and

(c) An individual residing in an intermediate care facility who requests, or a person on the individual's behalf requests pursuant to paragraph ~~(D)~~ (C) of this rule, assistance to move from the intermediate care facility to a community setting.

(2) A county board shall provide service and support administration in accordance with the requirements of section 5126.15 of the Revised Code.

(3) A county board shall provide adequate supervision to service and support administrators.

(4) An individual who is eligible for service and support administration in accordance

with paragraph ~~(E)(1)~~ (D)(1) of this rule and requests, or a person on the individual's behalf requests pursuant to paragraph ~~(D)~~ (C) of this rule, service and support administration shall receive service and support administration and shall not be placed on a waiting list for service and support administration.

~~(C)~~(E) Determination of eligibility for county board services

~~(1)~~ Service and support administrators shall, in accordance with rules adopted by the department, determine individuals' eligibility for county board services. A county board may assign responsibility for eligibility determination to a service and support administrator who does not perform other service and support administration functions; in such a case, results of the eligibility determination shall be shared with the service and support administrator who is the primary point of coordination for the individual in order to ensure coordination of services and supports. Results of the eligibility determination shall be shared in a timely manner with the individual, ~~and~~ the individual's guardian, and/or the adult whom the individual has identified, as applicable.

~~(2) The service and support administrator who determines an individual's eligibility for services shall:~~

~~(a) Explain to the individual, in conjunction with the process of recommending eligibility determination and/or assisting in making application for enrollment in a home and community-based services waiver or any other medicaid service, and in accordance with rules adopted by the department:~~

~~(i) Alternative services available to the individual;~~

~~(ii) The individual's due process and appeal rights; and~~

~~(iii) The individual's right to choose any qualified and willing provider.~~

~~(b) Explain to the individual, at the time the individual is being recommended for enrollment in a home and community-based services waiver:~~

~~(i) Choice of enrollment in a home and community-based services waiver as an alternative to intermediate care facility placement; and~~

~~(ii) Services available upon enrollment in a home and community-based services waiver.~~

~~(c) Make a recommendation to the Ohio department of medicaid 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 intermediate care facility level of care in accordance with rule 5101:3-3-07 of the Administrative Code.~~

(F) Primary point of coordination

(1) A county board shall identify a service and support administrator for each individual receiving service and support administration who shall be the primary point of coordination for the individual. An individual shall be given the opportunity to request a different service and support administrator from the county board.

(2) The service and support administrator shall:

(a) Explain to the individual, in conjunction with the process of recommending eligibility determination and/or assisting the individual in making application for enrollment in a home and community-based services waiver or any other medicaid service, and in accordance with rules adopted by the department:

(i) Alternative services available to the individual;

(ii) The individual's due process and appeal rights; and

(iii) The individual's right to choose any qualified and willing provider.

(b) Explain to the individual, at the time the individual is being recommended for enrollment in a home and community-based services waiver:

(i) Choice of enrollment in a home and community-based services waiver as an alternative to intermediate care facility placement; and

(ii) Services available upon enrollment in a home and community-based services waiver.

(c) Make a recommendation to the Ohio department of medicaid 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 intermediate care facility level of care in accordance with rule 5101:3-3-07 of the Administrative Code.

~~(2)~~(3) With the active participation of the individual and members of the team, the service and support administrator ~~who is the primary point of coordination~~ shall perform the following duties:

(a) Initially, and at least every twelve months thereafter, coordinate ~~the process to assess the individual's needs for services which shall be tailored to the individual~~ assessment of the individual.

(i) The assessment ~~process~~ shall take into consideration:

(a) What is important to the individual to promote satisfaction and achievement of desired outcomes;

(b) What is important for the individual to maintain health and welfare;

(c) Known and likely risks;

(d) The individual's place on the path to community employment in accordance with rule 5123:X-X-XX of the Administrative Code; and

(e) What is working and not working in the individual's life.

(ii) The assessment ~~process~~ shall identify services that promote the individual's:

(a) Rights (e.g., equality, citizenship, access, due process, and responsibility);

(b) Self-determination (e.g., choices, opportunities, personal control, and self-advocacy);

(c) Physical well-being (e.g., ~~health~~ routine and preventative healthcare and

daily living skills appropriate to age);

(d) Emotional well-being (e.g., self-worth, self-esteem, satisfaction with life, and spirituality);

(e) Material well-being (e.g., employment, money, education, and housing);

(f) Personal development (e.g., achievement, success, and personal competence);

(g) Interpersonal relationships (e.g., social contacts, relationships, and emotional supports); and

(h) Social inclusion (e.g., community participation and social supports).

(b) Using person-centered planning, develop, review, and revise the individual service plan and ensure that the individual service plan:

(i) Reflects results of the assessment ~~process~~.

(ii) Includes services and supports that:

(a) ~~Address~~ Assure health and welfare;

(b) Assist the individual to engage in meaningful and productive activities;

(c) Support community connections and networking with persons or groups including persons with disabilities and others;

(d) Assist the individual to improve self-advocacy skills and increase the individual's opportunities to participate in advocacy activities;

(e) Ensure achievement of outcomes that are important to the individual and outcomes that are important for the individual and address the balance of and any conflicts between what is important to the individual and what is important for the individual;

(f) Address identified risks and include instructions to prevent or minimize risks;

~~(g)~~(iii) ~~Integrate~~ Integrates all sources of services and supports, including natural supports and alternative services, available to meet the individual's needs and desired outcomes;

~~(h)~~(iv) ~~Reflect~~ Reflects services that are consistent with efficiency, economy, and quality of care; and

~~(i) Document commitments from providers of services and others to support the individual in achievement of his or her goals.~~

(iii) Is updated throughout the year.

(c) Establish a recommendation for and obtain approval of the budget for services based on the individual's assessed needs and preferred ways of meeting those needs.

(d) Through objective facilitation, assist the individual in choosing providers by:

(i) Ensuring that the individual is given the opportunity to select providers from all willing and qualified providers in accordance with applicable federal and state laws and regulations including rule 5123:2-9-11 of the Administrative Code; and

(ii) Assisting the individual as necessary to work with providers to resolve concerns involving a provider or direct support staff who are assigned to work with the individual.

(e) Secure commitments from providers to support the individual in achievement of the individual's goals.

~~(e)~~(f) Verify by signature and date that prior to implementation~~:~~

~~(i) Each~~ each individual service plan:

~~(a)~~(i) Indicates the provider, frequency, and funding source for each service; and

~~(b)~~(ii) Specifies which services will be delivered by which providers across all settings.

~~(ii) Each individual service plan for home and community-based services waiver services:~~

~~(a) Ensures the individual's health and welfare; and~~

~~(b) Meets the requirements of rule 5123:2-9-04 of the Administrative Code.~~

~~(f)~~(g) Establish and maintain contact with providers ~~of services~~ as frequently as necessary to~~:~~

~~(i) Ensure~~ ensure that each ~~person providing services~~ provider is trained on the individual service plan and has a clear understanding of the expectations and desired outcomes of the tasks being performed~~; and~~.

~~(ii) Monitor and ensure completion of the assigned tasks.~~

(h) Establish and maintain contact with natural supports as frequently as necessary to ensure that natural supports are available and meeting desired outcomes as indicated in the individual service plan.

~~(g)~~(i) Facilitate effective communication and coordination among the individual and members of the team by ensuring that the individual and each member of the team has a copy of the current individual service plan unless otherwise directed by the individual, ~~or~~ the individual's guardian, or the adult whom the individual has identified, as applicable. Providers shall receive a copy of the individual service plan at least fifteen days in advance of implementation unless extenuating circumstances make fifteen-day advance notice impractical and with agreement by the provider.

(i) A member of the team who becomes aware that revisions to the individual service plan are indicated shall notify the service and support administrator.

(ii) A member of the team may disagree with any provision in the individual service plan at any time. All dissenting opinions shall be specifically noted in writing and attached to the individual service plan.

~~(h)~~(j) Provide ongoing individual service plan coordination to ensure services and supports are provided in accordance with the individual service plan and to the benefit and satisfaction of the individual. Ongoing individual service plan coordination shall:

(i) Occur with the active participation of the individual and members of the team;

(ii) Focus on achievement of the desired outcomes of the individual;

(iii) Balance what is important to the individual and what is important for the individual;

(iv) Examine service satisfaction (i.e., what is working for the individual and what is not working); and

(v) Utilize the individual service plan as the fundamental tool to ensure the health and welfare of the individual.

~~(i)~~(k) Review and revise the individual service plan at least every twelve months and more frequently under the following circumstances:

(i) At the request of the individual or a member of the team, in which case revisions to the individual service plan shall occur within thirty days of the request;

(ii) Whenever the individual's assessed needs, situation, circumstances, or status changes (e.g., self-advocacy activities, hospitalization, or incarceration);

(iii) If the individual chooses a new provider or type of service or support;

(iv) As a result of reviews conducted in accordance with paragraph ~~(G)~~ (F)(3)(r) of this rule;

(v) Identified trends and patterns of unusual incidents or major unusual incidents; and

(vi) When home and community-based services waiver services or medicaid case management services are reduced, denied, or terminated by the department or the Ohio department of medicaid.

~~(j)~~(l) Provide an individual with written notification and explanation of the individual's right to a medicaid state hearing if the individual service plan process results in a recommendation for the approval, reduction, denial, or termination of a home and community-based services waiver service or medicaid case management service. Notice shall be provided in accordance with section 5101.35 of the Revised Code.

~~(k)~~(m) Explain to an individual whose individual service plan includes home and community-based services waiver services or medicaid case management services that the services are subject to approval by the department and the Ohio department of medicaid. If the department or the Ohio department of medicaid

approves, reduces, denies, or terminates home and community-based services waiver services or medicaid case management services included in an individual service plan, the service and support administrator who is the primary point of coordination for the individual shall communicate with the individual about this action.

~~(l)~~(n) Provide an individual with written notification and explanation of the individual's right to use the administrative resolution of complaint process set forth in rule 5123:2-1-12 of the Administrative Code if the individual service plan process results in the reduction, denial, or termination of a service other than a home and community-based services waiver service or medicaid case management service. Such written notice and explanation shall also be provided to an individual if the individual service plan 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.

~~(m)~~(o) Advise members of the team of their right to file a complaint in accordance with rule 5123:2-1-12 of the Administrative Code.

~~(n)~~(p) Retain responsibility for all decision-making regarding service and support administration functions and the communication of any such decisions to the individual.

~~(o)~~(q) Take actions necessary to remediate any immediate concerns ~~identified during reviews conducted in accordance with paragraph (G) of this rule~~ regarding the individual's health and welfare.

(r) Implement a continuous review process in accordance with rules and protocols established by the department to ensure that individual service plans are developed and implemented in accordance with the requirements set forth in this rule.

(i) The continuous review process shall be tailored to the individual and based on information provided by the individual and the team.

(ii) The scope, type, and frequency of reviews shall be specified in the individual service plan and shall include, but are not limited to:

(a) Face-to-face visits, occurring at a time and place convenient for the individual, at least annually or more frequently as needed by the individual; and

(b) Contact via phone, email, or other appropriate means as needed.

(iii) The frequency of reviews may be increased when an individual:

(a) Has intensive behavioral or medical needs;

(b) Has an interruption of services of more than thirty days;

(c) Encounters a crisis or multiple less serious but destabilizing events within a three-month period;

(d) Has transitioned from an intermediate care facility to a community

setting within the past twelve months;

(e) Has transitioned to a new provider of homemaker/personal care within the past twelve months; or

(f) Receives services from a provider that has been notified of the department's intent to suspend or revoke the provider's certification or license.

(iv) The service and support administrator shall share results of reviews in a timely manner with the individual, the individual's guardian, the adult whom the individual has identified, and the individual's providers, as applicable.

(v) If the continuous review process indicates areas of non-compliance with standards for providers of home and community-based services waiver services, the county board shall conduct a provider compliance review in accordance with rule 5123:2-2-04 of the Administrative Code.

~~(G) Continuous quality review process~~

~~(1) Service and support administrators shall, in accordance with rules and protocols established by the department, implement a continuous quality review process. A county board may assign responsibility for the quality review process to a service and support administrator who does not perform other service and support administration functions; in such a case, results of the quality review process shall be shared with the service and support administrator who is the primary point of coordination for the individual in order to ensure coordination of services and supports. Results of the quality review process shall be shared in a timely manner with the individual, the individual's guardian or adult whom the individual has identified, and the individual's providers, as applicable.~~

~~(2) The purpose of the continuous quality review process shall be to verify that the requirements set forth in paragraph (F) of this rule are met.~~

~~(3) The continuous quality review process shall be tailored to the individual and based on information provided by the individual and the team.~~

~~(4) The scope, type, and frequency of reviews shall be specified in the individual service plan and shall include, but are not limited to:~~

~~(a) Face-to-face visits, occurring at a time and place convenient for the individual, at least annually or more frequently as needed by the individual; and~~

~~(b) Contact via phone, email, or other appropriate means as needed.~~

~~(5) The frequency of reviews may be increased when the individual:~~

~~(a) Has intensive behavioral or medical needs;~~

~~(b) Has an interruption of services of more than thirty days;~~

~~(c) Encounters a crisis or multiple less serious but destabilizing events within a three-month period;~~

~~(d) Has transitioned from an intermediate care facility to a community setting within the past twelve months;~~

~~(e) Has transitioned to a new provider of homemaker/personal care within the past twelve months; or~~

~~(f) Receives services from a provider that has been notified of the department's intent to suspend or revoke the provider's certification or license.~~

~~(6) If the continuous quality review process indicates areas of non-compliance with standards for providers of home and community-based services waiver services, the county board shall conduct a provider compliance review in accordance with rule 5123:2-2-04 of the Administrative Code.~~

~~(H)~~(G) Emergency response system

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 to provide immediate response to an unanticipated event that requires an immediate change in an individual's existing situation and/or individual service plan to ensure health and safety. Persons who are available for the on-call emergency response system shall:

(1) Provide emergency response directly or through immediate linkage with the service and support administrator who is the primary point of coordination for the individual or with the 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 welfare, and identify and contact persons to take the needed action;

(3) Notify the providers and the service and support administrator who is the primary point of coordination for the individual to ensure adequate follow-up;

(4) Notify the county board's investigative agent as determined necessary by the nature of the emergency; and

(5) Document the emergency in accordance with county board procedures.

~~(I)~~(H) Records

(1) Paper or electronic records shall be maintained for individuals receiving service and support administration and shall include, at a minimum:

(a) Identifying data;

(b) Information identifying guardianship, other adult whom the individual has identified, trusteeship, or protectorship;

(c) Date of request for services from the county board;

(d) Evidence of eligibility for county board services;

(e) Assessment information relevant for services and the individual service plan process for supports and services;

(f) Current individual service plan;

(g) Current budget for services;

(h) Documentation that the individual exercised freedom of choice in the provider selection process;

(i) Documentation of unusual incidents;

(j) Major unusual incident investigation summary reports;

(k) The name of the service and support administrator;

(l) Emergency information;

(m) Personal financial information, when appropriate;

(n) Release of information and consent forms; and

(o) Case notes which include coordination of services and continuous ~~quality~~ review process activities.

(2) When the county board utilizes electronic record keeping and electronic signatures, the county board shall establish policies and procedures for verifying and maintaining such records.

~~(J)~~(I) Due process

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

~~(K)~~(J) Department monitoring and technical assistance

The department shall monitor compliance with this rule by county boards ~~and entities under contract with county boards 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.

~~(L)~~(K) Ohio department of medicaid monitoring of medicaid case management services

The Ohio department of medicaid retains final authority to monitor the provision of medicaid case management services in accordance with rule 5101:3-48-01 of the Administrative Code.