



Ohio Administrative Code

Rule 5160-45-03.2 ODM-administered waiver services: self-direction, and self-directed caregivers.

Effective: October 1, 2024

(A) An individual may choose how waiver services are delivered pursuant to the person-centered planning process outlined in rule 5160-44-02 of the Administrative Code.

(B) For purposes of this rule and rule 5160-45-03.5 of the Administrative Code:

(1) Home and community-based services (HCBS) are services available under the Ohio Home Care and MyCare waiver programs as described in chapters 5160-46 and 5160-58 of the Administrative Code.

(2) Individuals are people enrolled on or applying for an HCBS waiver. In self-directed services, the individual is the employer.

(3) Self-directed representatives (representatives) are people an individual may choose to assist with self-directing their services.

(4) Self-directed caregivers (caregivers) are employees of individuals using self-directed services.

(5) Financial management service (FMS) is an Ohio department of medicaid (ODM)-contracted agency that enrolls caregivers and processes payments for self-directed services.

(6) Employer-authority allows the individual to hire, manage, and dismiss their caregivers.

(7) Budget-authority allows the individual to manage the funds for self-directed waiver services.

(8) Self-directed budgets include the total cost of all waiver services that are or could be self-directed.

(9) Self-direction reviews are opportunities for an individual to discuss caregiver performance and to



self-direction review compliance with required program rules.

(C) The following services can be self-directed with employer-authority:

- (1) Personal care aide services in accordance with rule 5160-46-04 of the Administrative Code;
- (2) Home care attendant services in accordance with rule 5160-44-27 of the Administrative Code;
and
- (3) Waiver nursing services in accordance with rule 5160-44-22 of the Administrative Code.

(D) Services that can be self-directed with budget-authority include:

- (1) All services identified in paragraph (C) of this rule;
- (2) Home modifications as described in rule 5160-44-13 of the Administrative Code; and
- (3) Self-directed goods and services as described in 5160-45-03.5 of the Administrative Code.

(E) Individuals enrolled on an HCBS waiver who self-direct their services work with ODM's designated FMS and the waiver case manager to coordinate the authorized service delivery. Individuals need to be willing and able to:

- (1) Understand the service the caregiver furnishes.
- (2) Understand how to direct the caregiver.
- (3) Enrolls in self-direction through the waiver case manager and FMS.
- (4) Complete employer-authority related tasks, which may include:
 - (a) Identifying, selecting, and dismissing caregivers;



- (b) Entering into written agreements with caregivers for specific activities and training expectations;
 - (c) Training caregivers to meet their needs and verifying training is completed;
 - (d) Scheduling services;
 - (e) Supervising the caregiver's performance; and
 - (f) Approving the caregiver's time sheets and other documents needed for payment as determined by the FMS.
- (5) Perform budget-authority related tasks within the self-directed budget, including:
- (a) Determining wages for caregivers;
 - (b) Deciding spending for other self-directed services in accordance with paragraphs (D) and (E) of this rule and the person-centered services plan; and
 - (c) Managing services within the approved self-directed budget.
- (F) Representatives.
- (1) The individual may choose a representative to assist in self-directing services.
 - (2) Representatives help with employer tasks identified in paragraph (E)(4) of this rule.
 - (3) A representative cannot be the employer or caregiver.
- (G) Caregivers.
- (1) Before providing paid services, the caregiver will need to enroll with the FMS as a caregiver. Caregivers qualify to supply the services as follows:



(a) Personal care aide services:

(i) Completion of training as determined and verified by the individual;

(ii) Completion of training identified in paragraph (A)(8) of rule 5160-46-04 of the Administrative Code; or

(iii) Enrollment with ODM as a non-agency personal care aide provider.

(b) Home care attendant services:

(i) Completion of training identified in paragraph (A)(9) of rule 5160-44-27 of the Administrative Code; or

(ii) Enrollment with ODM as a home care attendant provider and having completed training for the individual served.

(c) Waiver nursing services:

(i) Maintain an active, unrestricted Ohio nursing license, as identified in rule 5160-44-22 of the Administrative Code; or

(ii) Enrollment with ODM as a non-agency waiver nursing provider.

(2) All caregivers enrolled with individual-specific training as identified in paragraph (G)(1)(a)(i) of this rule will be trained by each individual they serve.

(3) At enrollment, caregivers will complete all tasks and submit documentation to the FMS, including:

(a) Proof of the following:

(i) Training or qualifications as noted in paragraph (G)(1) of this rule;



(ii) Review of the applicable Ohio Administrative Code requirements for the service being provided;
and

(iii) Training in incident management reporting responsibilities as required in rule 5160-44-05 of the Administrative Code.

(b) Completed forms, including

(i) Self-direction enrollment, including disclosure of any indictment or conviction of a violation of state or federal law;

(ii) Federal and state employment and tax forms, including for the Ohio bureau of workers' compensation;

(iii) Medicaid provider agreement (ODM Form 10283); and

(iv) Consent for screening and criminal record checks in accordance with rule 5160-1-17.8 of the Administrative Code;

(4) Caregivers who are a parent, spouse, or other relative and meet the conditions set forth in rule 5160-44-32 of the Administrative Code and may deliver any self-directed service identified in paragraph (C) of this rule.

(5) Caregivers will use the FMS time-keeping system for recording all service time for which the caregiver expects to be reimbursed. This system will include electronic visit verification as outlined in chapter 5160-32 of the Administrative Code.

(6) Caregivers will at all times meet the requirements of ODM's provider conditions of participation as outlined in rule 5160-44-31 of the Administrative Code except paragraph (B)(2)(a) of that rule.

(7) Caregivers maintain documentation of services delivered as required for each service type identified in paragraph (C) of this rule. Parents, spouses, or other relatives who deliver self-directed



home care attendant services in accordance with rule 5160-44-32 are not required to obtain the signature of the individual or authorized representative to verify service delivery if the individual is unable to provide verification and there is no authorized representative present during service delivery.

(8) Caregivers will participate in self-direction reviews led by the individual with assistance from ODM's contracted review team. Caregivers are not required to participate in structural reviews as described in rule 5160-45-06 of the Administrative Code. Self-direction reviews are conducted as follows:

(a) Individuals and/or representatives will participate, by leading or at least being present during the self-direction reviews;

(b) Both the individual and caregiver will be notified by ODM's contracted self-direction review team when a self-direction review is due and will be scheduled prior to the due date at the individual's and caregiver's convenience;

(c) Initial self-direction reviews are conducted within the first twelve to twenty-four months of the caregiver's employment with the individual and are intended to provide guidance and technical assistance on compliance with applicable Administrative Code requirements;

(d) Additional self-direction reviews are conducted as requested by the individual or caregiver with no more than three years between self-direction reviews; and

(e) Self-direction reviews are educational and an opportunity to provide feedback on positive performance and areas for improvement including the following:

(i) Accountability: following the conditions of participation and documenting services that support the plan; and

(ii) Performance: supplying the services requested and submitting payroll on time; and

(iii) Individual satisfaction.



(f) Outcomes of the self-direction reviews are documented and signed by the individual and the caregiver.

(g) If any issues are identified during the self-direction review process, the caregiver will work with the individual on an opportunity for improvement plan. The improvement plan needs to include:

(i) Area(s) where improvement is needed;

(ii) Action(s) expected to meet the expectation; and

(iii) Timeline for completing the action(s).

(H) The FMS assists the caregiver to complete enrollment. The FMS conducts caregiver enrollment activities, including but not limited to:

(1) Validating employment, including:

(a) complete, file, and execute IRS and Ohio state forms necessary for employment; and

(b) conduct limited-risk screening and criminal record checks in accordance with rule 5160-1-17.8 of the Administrative Code. Criminal record checks will be conducted at initial enrollment and at least once every five years or as requested by the individual.

(2) Verifying caregiver eligibility as outlined in paragraph (C) of this rule.

(3) Reviewing with or ensuring that the caregiver completes a review of the applicable Administrative Code responsibilities for the service being provided.

(I) Caregivers will be enrolled when all required documentation as identified in paragraph (G) of this rule has been submitted. Enrollment will be completed within:

(1) Fourteen calendar days, or



(2) One business day of an expedited enrollment request from the case manager.

(J) Conditional employment.

(1) A caregiver who is not yet enrolled as a provider with ODM may be conditionally employed by the individual prior to obtaining the results of the criminal record check identified in paragraph (G) of this rule. Conditional employment can be in effect for up to sixty days. The FMS will:

(a) Conduct a review of the databases listed in rule 5160-1 17.8 of the Administrative Code to determine whether the caregiver is barred from rendering self-directed services; and

(b) Begin the criminal records check no later than five business days after conditional employment begins.

(2) The FMS agency will notify the individual, case manager, and ODM when the results of the criminal records check request:

(a) Are not obtained within sixty days of the criminal records check request, other than the results of any request for information from the federal bureau of investigation; or

(b) Reveal a disqualifying offense and the caregiver is not able to supply paid services.

(3) The FMS agency will advise the individual if a caregiver has a criminal offense on their record which is not disqualifying. The individual can choose to continue employing the caregiver or discontinue employment.

(K) If the FMS determines that a caregiver cannot be enrolled or maintain enrollment for any reason, the FMS will notify ODM. If a caregiver cannot be enrolled or maintain enrollment due to a disqualifying offense on a criminal record check, the FMS, with consent of the caregiver, will provide a copy of the criminal record check to ODM. ODM will review these results and issue a final decision to the Caregiver, including information on how to appeal the decision.



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(L) Individuals who cannot meet the requirements set forth in paragraph (E) of this rule, or whose the health and welfare cannot be ensured with the delivery of self-directed services will not be able to self-direct their services. The individual will be afforded notice and hearing rights in accordance with division 5101:6 of the Administrative Code.