

# Stark County Board of Developmental Disabilities

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## **FREE CHOICE OF PROVIDER**

### POLICY

The Board holds as a core value the belief that all people have the right to choose how they will live their lives, which is also a tenet of Medicaid as it pertains to people who have a Home and Community Based Services (HCBS) waiver when selecting a certified provider. Ohio Administrative Code (OAC) 5123:2-9-11 defines the process and the Board adheres to its implementation of the rule in policy and practice

This policy applies specifically to Service and Support Administrators (SSAs) when assisting people served or their legal representatives in selecting certified Medicaid providers and to providers of HCBS waivers in accordance with Section 5126.15 of the Revised Code.

The SSA must follow the provider choice process for each service specified in an Individual Service Plan (ISP) at the time of enrollment in an HCBS waiver, annually at the time of re-determination, and at any other time the person served or their legal representatives expresses an interest in or makes a request to choose a new, different or additional provider. The SSA shall document all notifications of free choice of provider.

SSAs shall complete follow up with the person served or their legal representatives within ten days of the annual service plan and/or any time services and/or providers change. This ensures services have been implemented on the date identified in the service plan and that they are of the correct frequency, type, duration and scope. Should services not be in place as per the service plan, the SSA will coordinate follow up to ensure the health and safety of the individual receiving services.

<p><b>Historical Resolution Information</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Date</th> <th style="text-align: left;">Resolution Number</th> </tr> </thead> <tbody> <tr> <td>10/24/15</td> <td>10-58-15</td> </tr> <tr> <td>1/22/19</td> <td>01-03-19</td> </tr> <tr> <td>5/24/22</td> <td>05-26-22</td> </tr> </tbody> </table>	Date	Resolution Number	10/24/15	10-58-15	1/22/19	01-03-19	5/24/22	05-26-22	<p><b>Reviewer(s):</b></p> <p>Director of Service &amp; Support Administration Superintendent</p>
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### PROCEDURE

#### Notification

- A. SSAs notify the person served and/or their legal representative at the time of enrollment in a home and community-based services (HCBS) waiver and at least annually thereafter, of their right to choose any qualified and willing provider of HCBS. The notification will include the following:
  - a. People may choose any certified provider, including an agency, independent, or a combination of agency and independent providers;
  - b. People may choose from all qualified and willing providers available statewide and are not limited to those currently providing services in a given county;
  - c. When a provider offers more than one service, the person may choose to receive only one of the offered services from that provider;
  - d. The person may choose to receive services from a different provider at any time;
  - e. A person choosing to receive homemaker/personal care in a licensed residential facility is choosing both the place of residence and the homemaker/personal care provider, but maintains free choice of providers for all other home and community-based services and the right to move to another setting at any time if a new homemaker/personal care provider is desired; and
  - f. SSAs will assist the person served with the provider selection process as desired/needed.

#### Assistance

- A. SSAs assist people served enrolled on an HCBS waiver with one or more of the following as requested:
  - a. Accessing the Department's website to conduct a search for a qualified and willing provider;
  - b. Providing the Department's guide to interviewing;
  - c. Assisting in the interview process as requested;

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- d. Sharing information about services offered by the provider to meet the unique needs of a specific group. Examples include children with autism, or individuals with intense medical or behavioral needs;
  - e. Sharing objective information with the individual about providers that includes reports of Provider Compliance Reviews;
  - f. Creating a profile to include the funding source, hours, type of services and supports required, service preferences and any other information the individual chooses to share with prospective providers;
  - g. Contacting providers on the individual's behalf;
  - h. Developing provider interview questions that reflect the characteristics of the individual's preferred provider; and
  - i. Scheduling and participating as needed in interviews of prospective providers.
- B. Stark DD has a dedicated SSA that provides assistance to people served, guardians and families seeking new, additional or changes to their HCBS provider. The dedicated SSA will follow all requirements set forth in OAC 5123:9-11 and may include coordinating with the person's assigned SSA.
- C. SSAs will document the alternative HCBS settings that were considered by each person and ensure that each ISP reflects the setting options chosen by the person served/guardian.
- D. SSAs will document each person has been offered free choice among all qualified and willing providers of home and community-based services.
- E. If a County Board receives a complaint from an person served regarding the free choice of provider process, the County Board shall respond to the person within thirty (30) calendar days, and provide the Department with a copy of the person's's complaint and the County Board's response. The Department shall review the complaint and the County Board's response, and take actions it determines necessary to ensure that each person has been afforded free choice among all qualified and willing providers of home and community-based services.
- F. The County Board shall notify the Department if they become aware of a provider conditioning willingness to provide a home and community-based service to a person served on being selected by that person to provide another service.

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- a. SSAs will review the situation with their supervisor, who will bring this situation to the attention of the Director or Assistant Director of the Service and Support Administration Department;
- b. SSA Department representatives and/or representatives from the Provider Compliance and Support Unit will discuss the situation and communicate with the provider as a means to resolve the concern;
- c. The Manager of Provider Compliance and Support will contact the Ohio Department of Developmental Disabilities if the situation is not resolved.

## Commencement of Services

- A. SSAs will follow up with the individual/guardian within ten (10) days of the individual's annual service plan and/or any time services and/or providers change. Should services not be in place as per the service plan, the SSA will coordinate follow up to ensure the health and safety of the individual receiving services.

## Due Process and Appeals

- A. Any recipient of, or applicant for, home and community-based services may utilize the process set forth in Section 5101.35 of the Revised Code, in accordance with Division 5101:6 of the Administrative Code, for any purpose authorized by that statute and the rules implementing the statute, including being denied the choice of a provider who is qualified and willing to provide home and community-based services.
- B. Providers shall not utilize, or attempt to utilize, the process set forth in section 5101.35 of the Revised Code. Providers shall not appeal or pursue any other legal challenge to a decision resulting from the process set forth in section 5101.35 of the Revised Code.
- C. The County Board shall inform the individual, in writing and in a manner the individual can understand, of the individual's right to request a hearing in accordance with Division 5101:6 of the Administrative Code.
- D. The County Board shall immediately implement any final state hearing decision, or administrative appeal decision relative to free choice of providers for home and community-based services issued by the Ohio Department of Medicaid, unless a court of competent jurisdiction modifies such a decision as the result of an appeal by the Medicaid applicant or recipient.