

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

POLICY 2.16 WAITING LISTS FOR SERVICES

I. Purpose

This policy sets forth the requirements for waiting lists established by the Board pursuant to Section 5126.042 of the Ohio Revised Code and Rule 5123-9-04 of the Ohio Administrative Code.

II. Definitions

- A. Adult – An individual who is 18 years of age or older.
- B. Alternative Services – 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” include, but are 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 (ICF-IID).
- C. Board – The seven-member Scioto County Board of Developmental Disabilities
- D. Community-based Alternate Services – Services in a setting other than a hospital, an ICF-IID, or a nursing facility.
- E. County Board – The Scioto County Board of DD as an agency
- F. Current Need – An unmet need for home- and community-based services within 12 months, as determined by the County Board based upon assessment of the individual using the waiting list assessment tool.

Situations that give rise to current need include:

- 1. An individual is likely to be at risk of substantial harm due to:
 - a. The primary caregiver’s declining or chronic physical or psychiatric condition that significantly limits his or her ability to care for the individual.
 - b. Insufficient availability of caregivers to provide necessary supports to the individual; or
 - c. The individual’s declining skills resulting from a lack of supports.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

2. An individual has an ongoing need for limited or intermittent supports to address behavioral, physical, or medical needs, in order to sustain existing caregivers and maintain the viability of the individual's current living arrangement.
 3. An individual has an ongoing need for continuous supports to address significant behavioral, physical, or medical needs.
 4. 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
 5. 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, as in effect on the effective date of this policy, 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, as in effect on the effective date of this policy.
- G. Date of request – The earliest date and time of any written or otherwise documented request for home- and community-based services made prior to September 1, 2018.
- H. Department – The Ohio Department of Developmental Disabilities.
- I. Home- and Community-based Services (HCBS) – Services funded in part by the federal government through Medicaid waivers administered by the Ohio Department of DD. The non-federal share of the funds may be provided by the County Board, the Department or a combination of sources.
- J. Immediate need – A situation that creases a risk of substantial harm to an individual, caretaker, or another person if action is not taken within 30 calendar days to reduce the risk. Situations that give rise to immediate need include:
1. 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 Ohio Administrative Code;

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

2. A resident of a nursing facility has received 30-day notice of intent to discharge in accordance with Chapter 5160-3 of the Ohio Administrative Code;
 3. A resident of a nursing facility has received an adverse determination in accordance with Rule 5123:2-14-01 of the Ohio Administrative Code;
 4. An adult is losing his or her 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:
 - a. Impending loss of the caregiver creates a risk of substantial harm to the individual; and
 - b. There are no other caregivers available to provide necessary supports to the individual.
 5. An adult or child is engaging in documented behavior that creates a substantial risk of harm to the individual, caregiver, or another person;
 6. There is impending risk of substantial harm to the individual or caregiver as a result of:
 - a. The individual's significant care needs (i.e. bathing, lifting, high-demand, or twenty-four hour care); or
 - b. The individual's significant or life-threatening medical needs.
 7. An adult has been subjected to abuse, neglect, or exploitation and requires additional supports to reduce a risk of substantial harm to the individual.
- K. Individual – In this policy, a person with a developmental disability.
- L. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID) – A facility as defined in Section 5124.01 of the Ohio Revised Code.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

- M. Locally-funded Home- and Community-based Services Waiver – A funding mechanism whereby the County Board pays the entire nonfederal share of Medicaid expenditures in accordance with ORC Sections 5126.059 and 5126.0510.
- N. Medicaid State Plan – A comprehensive written plan that forms an agreement between the state of Ohio and the federal government about the administration of Medicaid funds and the scope and nature of services that can be provided using these funds.
- O. Service and Support Administration – The duties performed by a Service and Support Administrator pursuant to Section 5126.15 of the Ohio Revised Code.
- P. State-funded Home- and Community-based Waiver – A funding mechanism whereby the Department pays, in whole or in part, the non-federal share of the Medicaid expenditures associated with an individual's enrollment in the waiver.
- Q. Status Date – 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.
- R. Transitional List – The list of individuals waiting for home- and community-based services maintained in the Department's web-based individual data system which shall include the name and date of request for each individual on a list of individuals waiting for home- and community-based services on the day immediately prior to September 1, 2018 in accordance with the Rule 5123:2-1-08 of the Ohio Administrative Code as that Rule existed on the day prior to September 1, 2018.
- S. Waiting List Assessment Tool – Ohio's assessment for determining immediate need and current need. Located in the Appendix of Rule 5123-9-04 of the Ohio Administrative Code, it shall 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 be administered by persons who successfully complete training developed by the Department.
- T. Waiting List Date – As applicable, either:
 - 1. The date of request for an individual whose name is included on the transitional list of individuals waiting for home- and community-based services; or

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

2. The earliest status date for an individual whose name is not included on the transitional list of individuals waiting for home- and community-based services.

U. Waiting List for Home- and Community-based Services – The list established by county boards and maintained in the Department's web-based waiting list management system which shall include the name, status date, date of request (as applicable), waiting list date, and the 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 on or after September 1, 2018.

III. Prohibited Waiting Lists

There shall be no waiting list for:

- A. Medicaid state plan services;
- B. Home- and community-based services for individuals already enrolled in an HCBS waiver administered by the Department;
- C. Home- and community-based services for children who are subject to a determination under ORC Section 121.38 and require the services; or
- D. Home- and community-based services for individuals who are transferred to a HCBS waiver from another Medicaid funding source.

IV. Administration of Waiting List for Home- and Community-based Services

A. Planning for locally-funded HCBS waivers

The County Board shall, in conjunction with development of its plan described in Section 5126.054 of the Ohio Revised Code and its strategic plan described in Rule 5123-4-01 of the Ohio Administrative Code, identify how many individuals the County Board plans to enroll in each type of locally-funded HCBS waiver during each calendar year, based on projected funds available to the County Board to pay the nonfederal share of Medicaid expenditures and the assessed needs of the county's residents on the waiting list for HCBS waivers. This information shall be made available to any interested person upon request within the limits of confidentiality.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

- B. Placement on a Waiting List for Home and Community-based Services
1. An individual residing in Scioto County, or the individual's guardian, as applicable, who thinks he/she has an immediate need, or a current need, may contact the County Board to request an assessment of the individual using the waiting list assessment tool. The County Board shall initiate an assessment within 30 calendar days. An individual or the individual's guardian, as applicable, shall have access to the individual's completed waiting list assessment tool maintained in the Department's web-based waiting list management system and upon request, shall be provided a copy by the County Board.
 2. The County Board shall place an individual's name on the waiting list for home and community-based services when, based on assessment of the individual using the waiting list assessment tool, the individual meets both conditions a. and b. below:
 - a. Has been determined to have a condition 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 22; and
 - iii. Likely to continue indefinitely.
 - b. Has a current need which cannot be met by community-based alternative services available in Scioto County (including a situation in which an individual has a current need despite the individual's enrollment in an HCBS waiver).
 3. The County Board shall not place an individual's name on the waiting list for home and community-based services when the individual:
 - a. Is a child who is subject to a determination under Section 121.38 of the Ohio Revised Code and requires home and community-based services; or

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

- b. Has an immediate need, in which case the County Board shall take action necessary to ensure the immediate need is met. The County Board shall provide the individual or the individual's guardian, as applicable, with the option of having the individual's needs met in an ICF-IID or through alternative services. Once an individual or individual's guardian chooses the setting in which he or she prefers to receive services, the County Board shall take action to ensure the individual's immediate need is met, including by enrollment in a HCBS waiver, if necessary. Such action may include assisting the individual or the individual's guardian, as applicable, in identifying and accessing alternative services that are available to meet the individual's needs.
4. When the County Board places an individual's name on the waiting list for home and community based services, the County Board shall:
 - a. Record in the Department's web-based waiting list management system:
 - i. The individual's status date;
 - ii. For an individual who is included in the transitional list of individuals waiting for home and community-based services, the individual's date of request remains the same as in the Rule effective previous to September 1, 2018.
 - b. Notify the individual and guardian, as applicable, that the individual's name is being 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.
5. Annually, the County Board shall:
 - 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

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

3. When an individual is identified as next to be enrolled in a locally-funded HCBS waiver, the County Board shall determine the individual's eligibility for enrollment in an HCBS waiver. When the County Board determines an individual is eligible for enrollment in an HCBS waiver, the County Board shall determine which type of locally-funded HCBS waiver is sufficient to meet the individual's needs in the most cost-effective manner.

D. Enrolling Individuals in State-funded HCBS Waivers

1. The Department shall determine the order for enrolling individuals in state-funded HCBS waivers.
2. Meeting the criteria for immediate need and/or current need does not guarantee enrollment in a state-funded HCBS waiver within a specific timeframe.

E. Change in an Individual's County of Residence

When an individual on the waiting list for home and community-based services moves from one county to another and the individual or the individual's guardian notifies the receiving county board, the receiving county board shall within 90 calendar days of receiving notice, review the individual's waiting list assessment tool.

1. When the receiving county board determines that the individual has a current need which cannot be met by community-based alternative services in the receiving county (including a situation in which an individual has a current need despite the individual's enrollment in a HCBS waiver), the receiving county board shall update the individual's county of residence in the Department's web-based waiting list management system without changing the status date or date of request assigned by the previous county board.
2. When the receiving county board determines that the individual has a current need which can be met by community-based alternative services in the receiving county, the receiving county board shall assist the individual or the individual's guardian in identifying and accessing those services.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

F. Removal from Waiting List for Home- and Community-based Services

The County Board shall remove an individual's name from the waiting list for home- and community-based services for any one of the following reasons:

1. When the County Board determines that the individual is no longer has a condition defined in Paragraph IV. B. 2. a. of this policy;
2. When the County Board determines that the individual no longer has a current need;
3. Upon request of the individual or the individual's guardian, as applicable;
4. Upon enrollment of the individual in an HCBS waiver that meets the individual's needs;
5. If the individual or the individual's guardian, as applicable, declines enrollment in an HCBS waiver or community-based alternative services that are sufficient to meet the individual's needs;
6. If the individual or the individual's guardian, as applicable, fails to respond to attempts by the County Board to contact the individual or the individual's guardian by at least two different methods, one of which shall be certified mail to the last known address of the individual or the individual's guardian, as applicable;
7. When the County Board determines the individual does not have a developmental disabilities level of care in accordance with Rule 5123:2-8-01 of the Ohio Administrative Code;
8. When the individual is no longer a resident of Ohio; or
9. Upon the individual's death.

G. Advancement from the Transitional List to the Waiting List

1. The Department shall maintain the transitional list of individuals waiting for home- and community-based services as defined in paragraph (B)(17) of the OAC Rule 5123-9-04 until December 31, 2020.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

2. Use of the waiting list assessment tool
 - a. The County Board shall administer the waiting list assessment tool to each individual residing in the county whose name is included on the transitional list of individuals waiting for home- and community-based services who receives service and support administration when the individual service plan is next scheduled for review following September 1, 2018.
 - b. The County Board shall administer the waiting list assessment tool to each individual residing in Scioto County whose name is included on the transitional list, who does not receive service and support administration, no later than December 31, 2020. The County Board may request, and the Department may provide, assistance to identify, locate, contact, or administer the waiting list assessment tool to individuals residing in the county but unknown to the County Board.
 - c. There are three possible outcomes of administration of the waiting list assessment tool:
 - i. The County Board determines the individual has an immediate need, in which case the individual shall receive services in accordance with the County Board's plan developed under Paragraph (D)(3)(b) of OAC Rule 5123-9-04;
 - ii. The County Board determines the individual has a current need, in which case the County Board shall use community-based alternative services in the county to meet the individual's needs or if the individual's needs cannot be met by community-based alternative services in the county, the County Board shall add the individual's name to the waiting list for home- and community-based services; or
 - iii. The County Board determines the individual has neither an immediate need nor a current need.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

- d. Once the waiting list assessment tool has been administered to an individual whose name is included on the transitional list and a determination made, the County Board shall notify the Department and the Department shall remove the individual's name from the transitional list of individuals waiting for home and community-based services.
 3. The County Board or the Department shall attempt to contact each individual whose name is included on the transitional list or the individual's guardian, as applicable, by at least two different methods, one of which shall be certified mail to the last known address of the individual or the individual's guardian, as applicable.
 4. The Department shall remove an individual's name from the transitional list when the individual, or the individual's guardian, as applicable:
 - a. Fails to respond to attempts by the County Board or the Department to establish contact; or
 - b. Declines an assessment of the individual using the waiting list assessment tool.
- H. Due Process
 1. Due process shall be afforded to an individual aggrieved by an action of the County Board related to:
 - a. The approval, denial, withholding, reduction, suspension, or termination of a service funded by the state Medicaid program;
 - b. Placement on or denial of, placement on, or removal from the waiting list for home- and community-based services or the transitional list of individuals waiting for home- and community-based services; or
 - c. A dispute regarding an individual's date of request or status date.
 2. Due process shall be provided in accordance with Section 5160.31 of the Ohio Revised Code and Chapters 5101:6-1 to 5101:6-9 of the Ohio Administrative Code.

SCIOTO COUNTY BOARD OF DEVELOPMENTAL DISABILITIES

V. Waiting Lists for Non-Medicaid Programs and Services

If the Board determines that available resources are not sufficient to meet the needs of all individuals who request non-Medicaid programs or services, the Board shall establish one or more waiting lists for such programs or services in accordance with the Board's plan developed under Section 5126.04 of the Ohio Revised Code.