

HOME AND COMMUNITY BASED SERVICES (HCBS) AND INDIVIDUAL SUPPORTS WAITING LIST POLICY

This policy establishes the Erie County Board of Developmental Disabilities (Board), in keeping with its mission to provide support to individuals and families, recognizes that there are times that available resources are not sufficient to meet the needs of all eligible individuals who request supports. The Board maintains and implements waiting lists for HCBS Waivers and Individual Supports for which resources are insufficient to meet needs. This policy and procedure do not relieve any person of the responsibility to comply with ORC 5126.042 and OAC 5123:2-1-08.

The Superintendent shall establish, revise and keep current the procedures to be utilized in the implementation of this policy. The Superintendent/ designee shall ensure compliance with these procedures. All revisions and changes will be shared with the Board when made.

Superintendent Signature:  Date: 5/18/17

Implemented: 1/20/05

Board Approval: 12/20/05, 5/18/17

Revised: 9/15/2005, 12/15/05, 1/18/07, 12/13/07, 8/21/08, 1/15/09, 2/8/10, 2/22/11, 2/1/12, 4/19/13, 11/20/14, 2/19/15, 5/18/17

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Cross Reference: ORC 5126.15, 5126.046, 5123.044; OAC 5123:2-1-08

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I. INTRODUCTION

- A. If the Board determines that available resources are not sufficient to meet the needs of all eligible individuals who request programs and services, the Board will develop and implement waiting lists in any of the following categories of services for which resources are insufficient to meet needs:
 - 1. Individual Supports;
 - 2. Residential Services, which includes Waiver Services.
- B. The Board may limit the expansion of some services, set cost limits, or require shared funding for some services in order to encourage or require funding partnerships with other public agencies/funding sources without creating a requirement for a waiting list. For example:
 - 1. Education Services
 - a) Funding for public education is the responsibility of the local school district. The Board is committed to continue to provide a support role in education for students with significant needs.
 - 2. Family and Children First Council (FCFC)
 - a) The Board may participate in joint funding agreements for eligible children as long as all funding partners remain involved and committed to joint funding agreements.
 - 3. Medicaid Services
 - a) The Board may set limits on funding for Medicaid waiver enrollment when the State of Ohio denies the Board state funding due to budget restrictions or other imposed cost caps. Such individuals will be placed on the Medicaid Waiver Waiting list(s).
 - 4. Requirements of Criminal Probation or Sentencing
 - a) The Board may participate in joint funding and service agreements related to an individual's disability but will not assume responsibility for providing criminal probation or sentencing supervision.
 - 5. Partnership with the Erie/Ottawa Mental Health Board to provide services for dually diagnosed individuals.

II. WAITING LIST INFORMATION

- A. The Individual and Family Supports Department will manage the waiting lists for Individual Supports and Residential Services (Waiver Services). Prior to accepting an application for someone to be placed on one of these lists, the SSA will verify that the individual cannot receive the requested service through a program service that is available or an existing community resource.
 - 1. Placement on the waiting list is determined by the original date and time of the request.
- B. Individuals may choose to be placed on more than one waiting list at a time given there is a need for the service and they meet any requirements for placement on the waiting list.
 - 1. If an individual chooses to be placed on an Individual and Family Supports Department maintained waiting list the 'Erie County Board of DD Waiting Lists' form will be used.
- C. One-time Intervention
 - 1. Occasionally an individual needs limited one time assistance to help them through a problem or situation to avoid being placed on the waiting list or

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to be removed from the waiting list. Individuals on a waiting list whose needs can be met with a one-time, non-reoccurring intervention can make application for special assistance without regard to their placement on the waiting list.

- D. If it is determined that the individual is not eligible for a category of service, the Individual and Family Supports Department will remove the individual's name from the list for that service and will assist the individual with contacting other agencies/programs for which the individual may be eligible.
 - 1. Individuals removed from the list have a right to due process.
- E. The waiting list(s) for each service is updated throughout the year as new applications are received and accepted.
 - 1. Each new application will be placed in the order in which they apply based on the original date and time of their request as received.
- F. The Board will offer home and community-based services, based on available resources.
 - 1. Individuals will be placed on the waiting list by the date and time of their request for service with the exception of individuals assessed as having a priority status.
- G. The waiting list for Individual Supports and the waiting list for each Medicaid Waiver are separate lists.
- H. The date and time of a waiting list request is recorded and monitored through a database and is included in the individual's official file that is maintained by the Board.
- I. When an individual relocates to Erie County from another Ohio county, Erie County will reorder the Medicaid Waiver waiting list based on the original HCBS application date of the individual.
- J. Board staff will clarify at the time of placement on the waiting list that, if offered, the individual would use services within the next three (3) months.
- K. At the time of a request for services and placement on a waiting list, designated board staff will inform, in writing to the individual, the individual's guardian, and the individual's family as applicable, of the alternative services available, the individual's place on the waiting list, and notice of due process rights.
- L. When a category of service for which there is a waiting list becomes available, the Board will reassess the service needs of the individual next on the waiting list to receive that category of service.
 - 1. If the reassessment demonstrates that the individual continues to need the category of service, the Board will offer the service to the individual and they have thirty (30) days to accept or decline the service.
 - 2. If the individual declines the service, the individual will be removed from the waiting list and if future requests are made they will be placed at the bottom of the waiting list based on the new date.
- M. If individuals enrolled on an Individual Options Waiver requests enrollment on the SELF Waiver the individual may be transferred to the waiver if the following conditions are met:
 - 1. The individual's needs can be more appropriately met by the SELF Waiver;
 - 2. The individual meets all the eligibility criteria for the SELF Waiver;
 - 3. The County Board requests to enroll the individual on the SELF Waiver;

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4. At any time within one hundred eighty (180) days of enrolling on the SELF Waiver, at the individual's request, the Board will request that the individual be re-enrolled on the waiver from which the transfer was made.

III. WAITING LIST PLACEMENT(S)

- A. Upon eligibility determination, an individual's needs are assessed to determine if services can be provided, or if placement on an existing waiting list(s) is necessary.
- B. If at any time an individual's needs change, they may request a service for which there is a waiting list. The individual will be placed on the list for the service appropriate to the individual's need based on the individual's assessment.

IV. WAITING LIST REMOVAL

- A. The following are reasons that an individual may be removed from a Waiting List:
 1. The individual accepts and receives the requested service.
 2. When the Board receives notification that an individual has been enrolled on a Medicaid Waiver by another county.
 3. When the Board receives notification that an individual is no longer requesting the specific services for which they are on a waiting list.
 - a) If an individual chooses to be removed from a waiting list, the 'Waiting List Removal Form' will be used.
 4. When the Board has made two documented annual attempts to contact an individual and/or their legal representative without success, the individual's name will be removed from the waiting list(s).
 - a) Notices of attempts to contact will be documented in the individual's file.
 - b) In the event the individual's whereabouts are located, the Board shall restore the individual to the waiting list based on the original date.
 5. When the Board receives verification that an individual is deceased.
 6. When the Board determines that an individual no longer meets the criteria to be on the waiting list, the Board will provide the individual or their guardian with written notice of their intent to remove them from the list and a copy of either the Board's 'Administrative Resolution of Complaints for Individuals' or 'Notice of the Right to Medicaid Due Process', whichever is applicable.
 - a) If no appeal is received within 30 days of the notice, the individual will be removed from the waiting list(s).

V. MEDICAID WAITING LIST REQUIREMENTS

- A. The Individual and Family Supports Department will assist individuals in making application for Medicaid Waivers and will follow the requirements under Rule 5123:2-1-08 of the Administrative Code to place individuals on a waiting list.
- B. The following individuals will not be subject to waiting list(s) and shall receive services within ninety (90) days of the date that the need for such services has been documented on the individual's ISP:
 1. Individuals assessed and determined to have a need for Medicaid State Plan services; and

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2. Individuals enrolled on a waiver with an ICFMR level of care and assessed to have a need for the service(s) covered by the waiver.
- C. The following items detail situations that meet the definition of priority status based on the specific waiver and may result in one individual being served before others.
1. Individual Options Waiver
 - a) Individuals who are eligible for home and community-based services and meet the following requirements are given priority over any other individual on the Individual Options waiting list.
 - (i) Is twenty-two years of age or older;
 - (ii) Receives supported living or family support services.
 - b) As funds become available from the process of refinancing an individual who is eligible for home and community-based services and meets the following requirements is given priority over any other individual on the Individual Options waiting list.
 - (i) Does not receive residential services or supported living, either needs services in the individual's current living arrangement, or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older.
 - c) As funds become available from the process of refinancing an individual who is eligible for home and community-based services and meets the following requirements is given priority over any other individual on the Individual Options waiting list.
 - (i) The individual that is less than twenty-two years of age and is determined by the county board based upon the criteria set forth in Rule 5123:2-1-08 paragraphs (D)(10)(c)(ii)(a) to (D)(10)(c)(ii)(e) to have intensive needs for home and community-based services on an in-home or out-of-home basis.
 - (ii) The individual that is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board based upon the criteria set forth in Rule 5123:2-1-08 paragraphs (D)(10)(c)(ii)(a) to (D)(10)(c)(ii)(e) to have intensive needs for home and community-based services on an in-home or out-of-home basis.
 2. Level 1 Waiver
 - a) An individual who is eligible for home and community-based services and meets both of the following requirements are given priority over any other individual on the Level 1 waiting list:
 - (i) The individual resides in their own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;

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- (ii) The individual receives Individual Supports (adult services) from or funded by the County Board.
 - b) As funds become available from the process of refinancing an individual who is eligible for home and community-based services and meets the following requirements are given priority over any other individual on the Level 1 waiting list:
 - (i) Is less than twenty-two years of age and is determined by the county board based upon the criteria set forth in Rule 5123:2-1-08 paragraphs (D)(10)(c)(ii)(a) to (D)(10)(c)(ii)(e) to have intensive needs for home and community-based services on an in-home or out-of-home basis.
 - (ii) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board based upon the criteria set forth in Rule 5123:2-1-08 paragraphs (D)(10)(c)(ii)(a) to (D)(10)(c)(ii)(e) to have intensive needs for home and community-based services on an in-home or out-of-home basis.
- 3. Self Empowered Life Funding Waiver (SELF)
 - a) Individuals who are eligible for home and community-based services and meet the following requirements are given priority over any other individual on the Self Empowered Life Funding waiting list:
 - (i) Is twenty-two years of age or older;
 - (ii) Receives supported living or family support service.
 - b) As funds become available from the process of refinancing an individual who is eligible for home and community-based services and meets the following requirement will be given priority over any other individual on the Self Empowered Life Funding waiting list:
 - (i) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older.
 - c) As funds become available from the process of refinancing an individual who is eligible for home and community-based services and meets the following requirements is given priority over any other individual on the Self Empowered Life Funding waiting list.
 - (i) The individual that is less than twenty-two years of age and is determined by the county board based on the criteria set forth in Rule 5123:2-1-08 paragraphs (D)(10)(ii)(a) to (D)(10)(c)(ii)(e) to have intensive needs for home and community-based services on an in-home or out-of-home basis.
 - (ii) The individual that is twenty-two years of age or older, does not receive residential services or supported living,

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and is determined by the county board based on the criteria set forth in Rule 5123:2-1-08 paragraphs (D)(10)(c)(ii)(a) to (D)(10)(c)(ii)(e) to have intensive needs for home and community-based services on an in-home or out-of-home basis.

- D. The County Board will inform each individual on a waiting list, the individual's guardian, and the individual's family, as applicable, of any change in the policies and procedures. The County Board will document that notice was given and the content of such notice.
- E. An individual assessed to meet emergency status may move ahead of another on the waiting list. To request an emergency waiver an individual, guardian, or family member must submit in writing a request for an emergency waiver. The Erie County Board of DD will then follow the procedure outlined in County Board procedure for Emergency Waiver allocation.

VI. EMERGENCY STATUS

- A. Emergency is defined as any situation that creates a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days (30). An individual with emergency status will receive first priority for all County Board services. An 'emergency' may include one or more of the following for an eligible individual:
 - 1. Loss of present residence including legal action;
 - 2. Loss of present caretaker for reasons such as: serious illness of the caretaker, change in caretaker's status, or inability of the caretaker to perform effectively for the individual;
 - 3. Abuse, neglect, or exploitation of the individual;
 - 4. Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;
 - 5. Change in the emotional or physical condition of the individual that necessitates substantial accommodations that cannot be reasonably provided by the individual's existing caretaker;
 - 6. For all services, a child subject to court order under Ohio Revised Code (ORC) 121.38 will not be placed on a waiting list.
- B. Situations that are intentionally created by an individual, their caretaker or others to create an emergency will not be considered an emergency and may be referred to law enforcement, adult protective services, or children services.
- C. When an individual, the individual's guardian, or the individual's family requests emergency services the following steps will be taken to ensure the individual requires 'emergency status' services.
 - 1. A Service and Support Administrator (SSA) will be assigned, if not already assigned, within two working days of request for emergency services.
 - 2. The SSA will meet with the individual, and if applicable the individual's guardian, and/or family, in their current residence within five working days of the request for emergency services.
 - a) Every attempt will be made to meet with the individual in their current residence.

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3. The SSA will review the list of alternative services available with the individual and their team to determine if other services available could remedy the emergency situation.
4. If alternative services are an acceptable remedy, the SSA will facilitate the receipt of those services, document the services to be provided and their start date, and schedule a follow-up meeting with the team within 15 working days of the meeting date to evaluate the effectiveness of alternative services.
5. At the point alternative services are able to remedy the situation; the individual's status can no longer be considered an 'emergency'. The SSA will also determine whether the individual wants to be placed on applicable waiting lists for service needs that are not an emergency.
6. If every attempt is made to propose reasonable alternative services and the individual, their guardian, or family refuse those alternatives in lieu of a particular service for which there is a waiting list, then the SSA shall document each attempt to propose alternative services, and the nature of the refusal.
7. The SSA, the individual, the individual's guardian, if applicable, will make a written request to the Director of Individual and Family Supports to be considered for 'emergency status'.
8. The Director of Individual and Family Supports will assign a designated County Board employee to complete the County Board's emergency waiver assessment tools.
9. The County Board employee that completed the emergency waiver assessment tool will, within seven working days, present the assessment tool to the Board's management team.
10. The Board management team will review the findings of the emergency assessment and make a recommendation and determination of finding for or against the granting of 'emergency status'.
11. Due Process will be provided to an individual that has been determined to not meet 'emergency status' criteria.

VII. NON-MEDICAID WAITING LIST REQUIREMENTS

- A. Residents of another county that request placement on a non-Medicaid waiting list(s) will use the date of request for Erie County placement on the waiting list not the date of request used in the county they reside in. To actually receive a Board non-Medicaid service the individual will need to reside in Erie County.
- B. Individuals must be eligible for DD services as determined by the OEDI or COEDI. The individual will be placed on waiting lists using their request date not the date that eligibility is determined.
- C. Individuals must meet age requirements and service eligibility requirements for the services requested.
- D. Individuals must complete an "Erie County Board of DD Waiting List" form as a way to document service needs and the date/time of the request for placement on Board service(s) waiting lists.

Erie County Board of DD Waiting List Removal Form

Name: _____

I would like to be removed from the following Waiting Lists:

- Level 1 Waiver
- Individual Options Waiver
- SELF Waiver

By completing this form, this indicates that I would like to be removed from the above marked waiting list(s).

Individual Signature: _____

Guardian Signature: _____

Date: _____ Time: _____

Removed from the Waiting List: _____ Date: _____

Due Process/Resolution of Complaint Given: _____

Erie County Board of DD Waiting List Form

Name _____

Caregiver Name(s) / Date(s) of Birth:

Service Options (check all that apply)

- Level 1 Waiver
- Individual Options Waiver
- SELF Waiver

Other Service Options: not administered by the County Board

- State Plan Services (medical card)
- Core Benefits(administered by JFS)
- Ohio Home Care Waiver(administered by JFS)
- PASSPORT / Assisted Living Waiver (Dept. of Aging services)
- Private Pay (Individual)
- Other: _____

Documentation received when enrolling on the waiting list (items below must be marked):

- Provided Due Process rights (7334 for waivers or non Medicaid due process)
- Provided list of community alternative services
- Need Assessment complete _____ Date
- Recommended the services described: _____

If waiting for a Home and Community Based Waiver, please describe why you are waiting:

By completing this form it indicates that I want to be on the waiting list and agree to use the services, if offered within the next three months.

Individual/Guardian Signature: _____ Date: _____ Time: _____

Added to Waiting List: _____ Date: _____