Ohio Administrative Code

Rule 5160-43-05 Specialized recovery services program provider conditions of participation.

Effective: October 15, 2021

(A) Specialized recovery service program providers shall maintain professional relationships with the individuals they serve. Providers shall furnish services in a person-centered manner that is in accordance with the individual's approved person-centered service plan, is attentive to the individual's needs and maximizes the individual's independence. Providers shall refrain from any behavior that may detract from the goals, objectives and services outlined in the individual's approved person-centered service plan and/or that may jeopardize the individual's health and welfare.

(B) Specialized recovery services program providers shall:

(1) Maintain an active, valid medicaid provider agreement as set forth in rule 5160-1-17.2 of the Administrative Code.

(2) Comply with all applicable provider requirements set forth in this chapter of the Administrative Code, including but not limited to:

(a) Provider requirements as set forth in rule 5160-43-04 of the Administrative Code;

(b) Incident reporting as set forth in rule 5160-44-05 of the Administrative Code;

(c) Provider monitoring, oversight, reviews and investigations as set forth in rule 5160-43-07 of the Administrative Code; and

(d) Criminal records checks for providers of home and community-based services (HCBS) as set forth in rule 5160-43-09 of the Administrative Code.

(3) Deliver services in a person-centered manner, professionally, respectfully and legally.

(4) Ensure that individuals to whom the provider is furnishing services are protected from abuse, neglect, exploitation and other threats to their health, safety and well-being. Upon entering into a medicaid provider agreement, and annually thereafter, all providers including all employees who have direct contact with individuals enrolled in the program must acknowledge in writing they have reviewed rule 5160-44-05 of the Administrative Code regarding incident management procedures.

(5) Work with the individual and his or her trans-disciplinary care team to coordinate service delivery, including, but not limited to:

(a) Agreeing to provide and providing services in the amount, scope, location and duration they have capacity to provide, and as specified on the individual's approved person-centered service plan.

(b) Contacting the individual, the recovery manager and/or his or her supervisor, as applicable, when the provider is unable to render services on the appointed date and time, and verify their receipt of information about the absence.

(6) To the extent not otherwise required by rule 5160-44-05 of the Administrative Code, notify the Ohio department of medicaid (ODM) or its designee within twenty-four hours when the provider is aware of issues that may affect the individual and/or provider's ability to render services as directed in the individual's person-centered service plan. Issues may include, but are not limited to:

(a) The individual consistently declines services,

(b) The individual plans to or has moved to another residential address,

(c) There are significant changes in the physical, mental and/or emotional status of the individual,

(d) There are changes in the individual's environmental conditions,

(e) The individual's caregiver status has changed causing service delivery to be impacted or interrupted,

(f) The individual no longer requires medically necessary services as defined in rule 5160-1-01 of the

Administrative Code,

(g) The individual's actions toward the provider are threatening or the provider feels unsafe in the individual's environment,

(h) The individual's requests conflict with his or her person-centered service plan and may jeopardize his or her health and welfare, and

(i) Any other situation that affects the individual's health and welfare.

(7) Upon request and within the time frame prescribed in the request, provide information and documentation to ODM, its designee and the centers for medicare and medicaid services (CMS).

(8) Cooperate with ODM and its designee during all provider monitoring and oversight activities by being available to answer questions during reviews, and by ensuring the availability and confidentiality of documentation that may be requested regarding service delivery to individuals.

(9) Participate in all provider trainings mandated or sponsored by ODM or its designees, including but not limited to those set forth in rule 5160-43-04 of the Administrative Code.

(10) Be knowledgeable about and comply with all applicable federal and state laws, including the "Health Insurance Portability and Accountability Act of 1996" (HIPAA) regulations set forth in 45 C.F.R. parts 160 and 164 (as in effect on October 1, 2020), confidentiality of alcohol and drug abuse patient records set forth in 42 C.F.R part 2 (as in effect on October 1, 2020), and the medicaid safeguarding information requirements set forth in 42 C.F.R. parts 431.300 to 431.307 (as in effect on October 1, 2020), along with sections 5160.45 to 5160.481 of the Revised Code.

(11) Ensure that the provider's contact information, including but not limited to address, telephone number, fax number and email address, is current. When contact information changes, the provider shall notify ODM via the medicaid information technology system (MITS) and its designee, no later than seven calendar days after such changes have occurred.

(12) Make arrangements to accept all correspondence sent by ODM or its designee, including

certified mail.

(13) Maintain and retain all required documentation related to the services delivered during a visit including but not limited to: an individual-specific description and details of the services provided or not provided in accordance with the person-centered service plan.

(a) Validation of service delivery shall include, but not be limited to, the date and location of service delivery, arrival and departure times and the dated signature of the provider.

(b) Retain all records of service delivery and billing for a period of six years after the date of receipt of the payment based upon those records, or until any initiated audit is completed, whichever is longer.

(14) Submit written notification to the individual and ODM or its designee at least thirty calendar days before the anticipated last date of service if the provider is terminating the provision of program services to the individual. Exceptions to the thirty-day advance notification requirement include:

(a) A verbal and written notification to the individual and ODM or its designee at least ten days before the anticipated last date of services when the individual:

(i) Has been admitted to a hospital;

(ii) Has entered into an institutional setting; or

(iii) Has been incarcerated.

(b) ODM may waive advance notification for a provider upon request and on a case-by-case basis.

(C) Specialized recovery services program providers shall not:

(1) Engage in any behavior that causes or may cause physical, verbal, mental or emotional abuse or distress to the individual.

(2) Engage in any behavior that may compromise the health and welfare of the individual.

(3) Engage in any behavior that may take advantage of the individual, his or her family, household members or authorized representative, or that may result in a conflict of interest, exploitation or any other advantage for personal gain. This includes but is not limited to:

(a) Misrepresentation;

(b) Accepting, obtaining, attempting to obtain, borrowing, or receiving money or anything of value including but not limited to gifts, tips, credit cards or other items;

(c) Being designated on any financial account including, but not limited to bank accounts and credit cards;

(d) Using real or personal property of another;

(e) Using information of another;

(f) Lending or giving money or anything of value;

(g) Engaging in the sale or purchase of products, services or personal items;

(h) Engaging in any activity that takes advantage of or manipulates specialized recovery services program rules.

(4) Falsify the individual's signature, including copies of the signature.

(5) Make fraudulent, deceptive or misleading statements in the advertising, solicitation, administration or billing of services.

(6) Submit a claim for program services rendered while the individual is hospitalized, institutionalized, incarcerated, or otherwise residing in a setting that does not meet the HCBS setting requirements set forth in rule 5160-44-01 of the Administrative Code.

(D) While rendering services, specialized recovery services providers shall not:

(1) Take the individual to the provider's place of residence;

(2) Bring animals which are not service animals, children, friends, relatives, or any others to the individual's place of residence;

(3) Provide care to persons other than the individual;

(4) Smoke without consent of the individual;

(5) Sleep;

(6) Engage in any distracting activity that is not related to the provision of services which may interfere with service delivery. Such activities include, but are not limited to:

(a) Using electronic devices for personal or entertainment purposes including, but not limited to watching television, using a computer or playing games;

(b) Making or receiving personal communications; and

(c) Engaging in socialization with persons other than the individual.

(7) Deliver services when the provider is medically, physically or emotionally unfit;

(8) Use or be under the influence of the following while providing services:

(a) Alcohol,

(b) Illegal drugs,

(c) Chemical substances, or

(d) Controlled substances that may adversely affect the provider's ability to furnish services.

(9) Engage in any activity that may reasonably be interpreted as sexual in nature, regardless of whether it is consensual;

(10) Engage in any behavior that may reasonably be interpreted as inappropriate involvement in the individual's personal beliefs or relationships including, but not limited to discussing religion, politics or personal issues; or

(11) Consume the individual's food and/or drink without his or her offer and consent.

(E) Program service providers shall not be designated to serve or make decisions for the individual in any capacity involving a declaration for mental health treatment, general power of attorney, health care power of attorney, financial power of attorney, guardianship pursuant to court order, as an authorized representative, or as a representative payee.

(F) Providers shall pay applicable federal, state and local income and employment taxes in compliance with federal, state and local requirements. Federal employment taxes include medicare and social security.

(G) Failure to meet the requirements set forth in this rule may result in any of the actions set forth in rules 5160-44-05 and 5160-43-07 of the Administrative Code including, but not limited to, termination of the medicaid provider agreement in accordance with rule 5160-1-17.6 of the Administrative Code. When ODM proposes termination of the medicaid provider agreement, the provider shall be entitled to a hearing under Chapter 119. of the Revised Code in accordance with Chapter 5160-70 of the Administrative Code.