



## Ohio Administrative Code

### Rule 5160:1-2-03 Medicaid: request for home and community-based services (HCBS) waiver.

Effective: January 1, 2024

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(A) This rule sets forth the process for determining whether an individual is eligible for medical assistance payments for services under a home and community-based services (HCBS) waiver, as described in rules 5123:2-9-01, 5160-31-03, 5160-33-03, 5160-40-01, 5160-41-17, 5160-42-01, 5160-46-02, 5160-58-02.2, and 5160-59-04 of the Administrative Code.

(B) Eligibility for an HCBS waiver. To receive services under an HCBS waiver, the individual shall:

(1) Be eligible for medical assistance, as described in Chapters 5160:1-1 to 5160:1-6 of the Administrative Code; and

(2) Be in need of HCBS under a waiver described in agency 5123 or 5160 of the Administrative Code; and

(3) Be enrolled in an HCBS waiver described in agency 5123 or 5160 of the Administrative Code; and

(4) Not be simultaneously enrolled in another HCBS waiver, the residential state supplement (RSS) program described in rule 5160:1-5-01 of the Administrative Code, or the program of all-inclusive care for the elderly (PACE).

(C) Request for an HCBS waiver.

(1) An individual may request an HCBS waiver by:

(a) Indicating the request on an application for medical assistance; or

(b) Submitting an ODM 02399 "Request for Medicaid Home and Community-Based Services (HCBS) Waiver" (rev. 8/2018) to the administrative agency; or



- (c) Indicating the request verbally or in writing to the administrative agency; or
  - (d) Indicating the request verbally or in writing to an Ohio department of medicaid (ODM) approved long-term services and supports agency.
- (2) The effective date of an HCBS waiver request is determined in accordance with rule 5160:1-2-01 of the Administrative Code.
- (D) Processing a request for an HCBS waiver.
- (1) Upon receipt of an HCBS waiver request when the individual is currently in receipt of medical assistance, the administrative agency shall:
- (a) Submit the request within two business days using the Ohio department of medicaid (ODM) approved submission process; and
  - (b) Document the following in the electronic eligibility system case record:
    - (i) The date the administrative agency received the request for HCBS; and
    - (ii) The date the administrative agency submitted the request using the ODM approved submission process.
- (2) Upon receipt of an HCBS waiver request when the individual is not currently in receipt of medical assistance, the administrative agency shall:
- (a) Begin the application process for medical assistance, as described in rule 5160:1-2-01 of the Administrative Code; and
  - (b) Submit the request within two business days using the ODM approved submission process; and
  - (c) Document the following in the electronic eligibility system case record:



- (i) The date the administrative agency received the request for HCBS; and
  
  - (ii) The date the administrative agency submitted the request using the ODM approved submission process.
- (E) Determination of eligibility for an HCBS waiver. The administrative agency is to approve an HCBS waiver for an individual eligible for medical assistance only upon:
- (1) Approval by the HCBS waiver operational agency; and
  
  - (2) Notification that the individual may be enrolled in the waiver from ODM, its designee, or an HCBS waiver operational agency, when services under the waiver are available only to a specific number of individuals.
- (F) Coverage period. The HCBS waiver coverage period can have a different beginning date or ending date from the medical assistance eligibility period.
- (1) HCBS cannot:
    - (a) Begin before an individual's medical assistance eligibility period or before an individual's retroactive medical assistance eligibility period.
  
    - (b) Extend beyond the discontinuance date of an individual's medical assistance coverage.
  
    - (c) Be provided during any period of medical assistance ineligibility.
  
  - (2) Medical assistance coverage of HCBS begins on the latest of the following dates:
    - (a) The date the administrative agency receives a request for an HCBS waiver from an individual; or
  
    - (b) The date the individual meets all criteria for coverage of an HCBS waiver described in agency 5123 or 5160 of the Administrative Code; or



(c) The date the individual is authorized by the HCBS waiver operational agency to receive services under an HCBS waiver.

(3) Medical assistance coverage of HCBS ends when either:

(a) The administrative agency determines the individual no longer meets the conditions of eligibility, as described in rule 5160:1-2-10 of the Administrative Code, or the criteria for coverage of HCBS; or

(b) The HCBS waiver operational agency notifies the administrative agency that it no longer authorizes the individual to receive HCBS.

(G) HCBS waiver operational agency responsibilities.

(1) Determine, in accordance with this rule and agencies 5123 and 5160 of the Administrative Code, whether the individual requesting an HCBS waiver meets the requirements of the applicable HCBS waiver program.

(2) Provide written notification to the individual of the HCBS programmatic determination.

(3) Notify the administrative agency of determinations and subsequent changes regarding approval of HCBS.

(H) Administrative agency responsibilities.

(1) Determine an individual's eligibility for an HCBS waiver in accordance with this rule. When the administrative agency determines that an individual who requests an HCBS waiver is not eligible for any category of medical assistance, the administrative agency is to deny both the medical assistance application and HCBS waiver request for that individual.

(2) Notify the applicable HCBS waiver operational agency of changes in the individual's eligibility for medical assistance coverage of services under an HCBS waiver.