



Ohio Revised Code

Section 5126.042 Waiting lists for non-medicaid programs or services.

Effective: October 12, 2016

Legislation: House Bill 158 - 131st General Assembly

(A) As used in this section, "emergency status" means a status that an individual with developmental disabilities has when the individual is at risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency status" may include a status resulting from one or more of the following situations:

(1) Loss of present residence for any reason, including legal action;

(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the 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 accommodation that cannot be reasonably provided by the individual's existing caretaker.

(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs or services, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists established under this division. Any such priorities shall be consistent with the board's plan and applicable law.

(C) If a county board determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to



the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance with rules adopted under division (E) of this section:

- (1) The individual is receiving supported living, family support services, or adult services for which no federal financial participation is received under the medicaid program;
- (2) The individual's primary caregiver is at least sixty years of age;
- (3) The individual has intensive needs as determined in accordance with rules adopted under division (E) of this section;
- (4) The individual resides in an ICF/IID, as defined in section 5124.01 of the Revised Code;
- (5) The individual resides in a nursing facility, as defined in section 5165.01 of the Revised Code.

(D) If two or more individuals on a waiting list established under division (C) of this section have priority for the services pursuant to that division, a county board shall use criteria specified in rules adopted under division (E) of this section in determining the order in which the individuals with priority will be offered the services. An individual who has priority for home and community-based services because the individual has an emergency status has priority for the services over all other individuals on the waiting list who do not have emergency status.

(E) The department of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under division (C) of this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated. As part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board shall use under division (D) of this section in determining the order in which individuals with priority for home and community-based services pursuant to division (C) of this section will be offered the services.

(F) The following shall take precedence over the applicable provisions of this section:



(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.