As Introduced

135th General Assembly
Regular Session **H. B. No. 246**
2023-2024

Representatives Cutrona, Brewer

A BILL

To amend section 5164.91 and to enact sections 173.525, 5162.137, 5166.122, and 5166.162 of the Revised Code regarding self-direction in certain Medicaid home and community-based services waiver programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5164.91 be amended and sections 173.525, 5162.137, 5166.122, and 5166.162 of the Revised Code be enacted to read as follows:

Sec. 173.525. (A) As used in this section, "self-directed services" has the same meaning as in 42 U.S.C. 1396n(i)(1)(G)(iii)(II).

(B) Unless the medicaid-funded component of the PASSPORT program is terminated pursuant to division (C) of section 173.52 of the Revised Code, the department of aging shall do both of the following:

(1) Streamline the direct service worker certification and the participant enrollment processes for self-directed services under the medicaid-funded component of the PASSPORT program in accordance with division (C) of this section;

(2) Ensure that PASSPORT program participants are enrolled and able to receive self-directed services not later than thirty days after the date of application for those services. The department shall create an exception to this requirement in the event that there are insufficient direct service workers or other delays that are through no fault of the direct service worker or the participant.

(C) The department shall streamline the certification and enrollment processes for self-directed services under the medicaid-funded component of the PASSPORT program by doing all of the following:

(1) Combining participant orientation meetings into one meeting to ensure the orientation is effective and efficient;

(2) Establishing timelines for completing the direct service worker certification processes;

(3) Establishing reporting requirements to monitor compliance with the certification timelines established under division (C)(2) of this section;

(4) To the extent possible under federal law, combining the direct service worker certification and participant enrollment steps concurrently, rather than sequentially;

(5) Collecting and compiling data on when a PASSPORT program participant requests self-directed services and the start date of those services to ensure timely access to services;

(6) Permitting direct service workers and participants to apply separately and be certified or enrolled, as applicable, without requiring a match between a direct service worker and a participant;

(7) Permitting direct service workers to provide conditional self-directed services for up to sixty days while undergoing any required criminal background checks and training.

(D) The department shall establish goals for the number of medicaid-funded component PASSPORT program participants electing to participate in self-directed services.

(E) For purposes of the national provider identifier requirement implemented under section 1171 of the "Health Insurance Portability and Accountability Act of 1996," 42 U.S.C. 1320d et seq., and 45 C.F.R. 162.404 et seq., the department shall classify a direct service worker who is not a health care provider, as that term is defined in 45 C.F.R. 160.103, as an atypical provider and shall not require the direct service worker to obtain a national provider identifier number. As permitted by the United States centers for medicare and medicaid services, a medicaid provider number or other identifier shall replace the national provider identifier requirement for those individuals receiving self-directed services. The department of aging shall modify its electronic visit verification system to use the financial management services' system rather than the vendor used for traditional medicaid services.

(F) The director of aging shall adopt rules as necessary to implement the provisions of this section.

Sec. 5162.137. The medicaid director shall annually report to the joint medicaid oversight committee and, in accordance with section 101.68 of the Revised Code, the members of the general assembly, the number and per cent of waiver program participants offered the option to self-direct services and the number and per cent of total waiver program participants electing to self-direct services in each of the following

medicaid waiver programs:

(A) The medicaid-funded component of the PASSPORT program;

(B) The Ohio home care waiver program;

(C) The integrated care delivery system medicaid waiver component.

Sec. 5164.91. The medicaid director may implement a demonstration project called the integrated care delivery system to test and evaluate the integration of the care that dual eligible individuals receive under medicare and medicaid. No provision of Title LI of the Revised Code applies to the integrated care delivery system if that provision implements or incorporates a provision of federal law governing medicaid and that provision of federal law does not apply to the system.

As soon as practicable, as determined by the director, the director shall expand the integrated care delivery system so it is available in all counties of this state and shall include in the system options for system participants to self-direct services, such as authority over provider and budget matters.

Sec. 5166.122. (A) As used in this section, "self-directed services" has the same meaning as in 42 U.S.C. 1396n(i)(1)(G)(iii)(II).

(B) Unless the Ohio home care waiver program is terminated pursuant to section 5166.12 of the Revised Code, the department of medicaid shall implement self-directed services in the program as soon as practicable, as determined by the medicaid director, but not later than one year after the effective date of this section.

(C) Once implemented under division (B) of this section,

the department of medicaid shall do both of the following:

(1) Streamline the direct service worker certification and the participant enrollment processes for self-directed services under the Ohio home care waiver program in accordance with division (D) of this section;

(2) Ensure that Ohio home care waiver program participants are enrolled and able to receive self-directed services not later than thirty days after the date of application for those services. The department shall create an exception to this requirement in the event that there are insufficient direct service workers or other delays that are through no fault of the direct service worker or the participant.

(D) The department shall streamline the certification and enrollment processes for self-directed services under the Ohio home care waiver by doing all of the following:

(1) Combining participant orientation meetings into one meeting to ensure the orientation is effective and efficient;

(2) Establishing timelines for completing the direct service worker certification processes;

(3) Establishing reporting requirements to monitor compliance with the certification timelines established under division (D)(2) of this section;

(4) To the extent possible under federal law, combining the direct service worker certification and participant enrollment steps concurrently, rather than sequentially;

(5) Collecting and compiling data on when an Ohio home care waiver participant requests self-directed services and the start date of those services to ensure timely access to

services;

(6) Permitting direct service workers and participants to apply separately and be certified or enrolled, as applicable, without requiring a match between a direct service worker and a participant;

(7) Permitting direct service workers to provide conditional self-directed services for up to sixty days while undergoing any required criminal background checks and training.

(E) The department shall establish goals for the number of Ohio home care waiver participants electing to participate in self-directed services.

(F) For purposes of the national provider identifier requirement implemented under section 1171 of the "Health Insurance Portability and Accountability Act of 1996," 42 U.S.C. 1320d et seq., and 45 C.F.R. 162.404 et seq., the department shall classify a direct service worker who is not a health care provider, as that term is defined in 45 C.F.R. 160.103, as an atypical provider and shall not require the direct service worker to obtain a national provider identifier number. As permitted by the United States centers for medicare and medicaid services, a medicaid provider number or other identifier shall replace the national provider identifier requirement for those individuals receiving self-directed services. The department of medicaid shall modify its electronic visit verification system to use the financial management services' system rather than the vendor used for traditional Medicaid services.

(G) The medicaid director shall adopt rules as necessary to implement the provisions of this section.

Sec. 5166.162. (A) As used in this section, "self-directed

services" has the same meaning as in 42 U.S.C. 1396n(i)(1)(G)(iii)(II).

(B) If the medicaid director creates a home and community-based services medicaid waiver component under section 5166.16 of the Revised Code as part of the integrated care delivery system, the department of medicaid shall do both of the following:

(1) Streamline the direct service worker certification and participant enrollment processes for self-directed services under the ICDS medicaid waiver component in accordance with division (C) of this section;

(2) Ensure that ICDS medicaid waiver participants are enrolled and able to receive self-directed services not later than thirty days after the date of application for those services. The department shall create an exception to this requirement in the event that there are insufficient direct service workers or other delays that are through no fault of the direct service provider or the participant.

(C) The department shall streamline the certification and enrollment processes for self-directed services under the ICDS medicaid waiver component by doing all of the following:

(1) Combining participant orientation meetings into one meeting to ensure the orientation is effective and efficient;

(2) Establishing timelines for completing the direct service worker certification processes;

(3) Establishing reporting requirements to monitor compliance with the certification timelines established under division (C)(2) of this section;

(4) To the extent possible under federal law, combining the direct service worker certification and participant enrollment steps concurrently, rather than sequentially;

(5) Collecting and compiling data on when an ICDS medicaid waiver component participant requests self-directed services and the start date of those services to ensure timely access to services;

(6) Permitting direct service workers and participants to apply separately and be certified or enrolled, as applicable, without requiring a match between a direct service worker and a participant;

(7) Permitting direct service workers to provide conditional self-directed services for up to sixty days while undergoing any required criminal background checks and training.

(D) The department shall establish goals for the number of integrated care delivery system enrollees electing to participate in self-directed services.

(E) For purposes of the national provider identifier requirement implemented under section 1171 of the "Health Insurance Portability and Accountability Act of 1996," 42 U.S.C. 1320d et seq., and 45 C.F.R. 162.404 et seq., the department shall classify a direct service worker who is not a health care provider, as that term is defined in 45 C.F.R. 160.103, as an atypical provider and shall not require the direct service worker to obtain a national provider identifier number. As permitted by the United States centers for medicare and medicaid services, a medicaid provider number or other identifier shall replace the national provider identifier requirement for those individuals receiving self-directed services. The department of

medicaid shall modify its electronic visit verification system to use the financial management services' system rather than the vendor used for traditional Medicaid services.

(F) The medicaid director shall adopt rules as necessary to implement the provisions of this section.

Section 2. That existing section 5164.91 of the Revised Code is hereby repealed.