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Ohio



and Funding for Individual Options Waiver



and Answers by Ohio Legal Rights Service

Key



Whenever you see this symbol this is an additional bit of information that may be helpful to you.



Whenever you see this symbol and blue text, the statement is a “right” of the person who is a waiver recipient.



When you see this symbol it means that a child receiving waiver services may be entitled to more services than an adult. This is because a separate Medicaid program called Early and Periodic Screening, Diagnosis, and Treatment, or EPSDT, which covers children under the age of 21, offers expanded benefits to children with Medicaid. Ohio’s EPSDT program is called HealthChek. For information about rights under HealthChek go to OLRS’ website at

<http://olrs.ohio.gov/asp/EPSDT.asp>.

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and is not intended as legal advice.

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Background

Ohio is in the middle of changing the way it decides the level of funding for services for persons who are served by the Individual Options (IO) waiver. This new reimbursement system is used for every new enrollee on the IO waiver and is being phased in for current enrollees on the IO waiver. It must be used in every county in the state.

The IO waiver is a Medicaid service, and like all Medicaid services it is funded in part by the federal government (approximately 59%) and in part by the state or local government (approximately 41%). The state or local money is often referred to as “match” because without state or local matching dollars you cannot get the federal dollars. The federal government (who must approve all waivers) has had concerns about Ohio’s system of paying for IO waiver services, in part because it was not always consistent across the state.



The “match” for a significant portion of the people served by the IO waiver comes from the county boards of mental retardation and developmental disabilities (MRDD). The county board either commits money that they would be receiving from the state to use as “match” or they may also use local levy money. Given that not all 88 county boards are funded equally, there have been differences (often significant) in the level of funding available for individuals receiving IO waiver services. The intent of the Ohio Developmental Disabilities Profile (ODDP) is to establish a baseline for a funding level that treats everyone the same regardless of where they reside in the state.



This publication was developed by Ohio Legal Rights Service (OLRS), Ohio’s protection and advocacy agency for people with disabilities, to respond to questions about the process that is being implemented and to identify some of your rights.

Question 1

What is the ODDP?

Answer

The Ohio Developmental Disabilities Profile (ODDP) is an assessment tool that is being used for all individuals on the IO waiver, and all new applicants for that waiver. The state developed the ODDP, and requires the county boards of MRDD to use it, in order to ensure that people on the IO waiver with similar needs receive similar funding for their services – regardless of where they live in Ohio. The score received on the ODDP determines a funding range for your annual waiver services. The ODDP does not determine the number of hours of waiver service that you require. The funding range provided by the ODDP is used together with the development of your Individual Service Plan (ISP) to decide what services you will receive.

Question 2

Who completes the ODDP?

Answer

A person from the county board of MRDD (or from a council of government acting on behalf of a county board) completes the ODDP. The person has been trained and certified by the Ohio Department of Mental Retardation and Developmental Disabilities to complete the assessment.



The person who receives waiver services, or their guardian (if they have one), or their parent (if the waiver recipient is a child) has the right to take part in the assessment (or they can refuse to take part).



You can identify the people who are most important to you to participate in the assessment.

ODDP Step-by-Step:

✓ Step 1 Completion of the ODDP.

Question 3

What does the ODDP include?

Answer

The ODDP includes, but is not limited to, the following:

- The unpaid care available to you (sometimes referred to as natural supports);
- Your living arrangement;
- Your behavior support needs;
- Your mobility;
- Your ability for self care; and
- Other variables that significantly impact your needs as determined by the state department of MRDD through statistical analysis.

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INFO.

The ODDP does not cover all variables that might impact your needs. For example, the ODDP does not include questions about your sleeping patterns. If there is a variable that you think is important, tell the person completing the ODDP and ask them to document it on the front of the ODDP. It will not change your funding range but may be helpful if you need to ask for higher funding later.

Question 4

What happens when the ODDP is completed?

Answer

The person who completed the assessment will enter the information into a computer program that is maintained by the Ohio Department of Mental Retardation and Developmental Disabilities. That program will determine a score and provide a funding range for your waiver services.



The computer program is designed to “weigh” the answers to the ODDP in order to provide the funding range. However, neither the person who gets waiver services, nor the county board of MRDD, knows how much weight is given to each answer on the ODDP.



You have the right to a copy of the completed ODDP and the results.

ODDP Step-by-Step:

- ✓ Step 1 Completion of the ODDP.
- ✓ Step 2 ODDP provides a funding range.

Question 5

I live with my family, and during my ODDP they asked about a “routine voluntary caregiver.” What effect does this have in the assessment?

Answer

There are individuals on the IO waiver who live with family members who are getting lower funding ranges under the ODDP. It is not yet clear why the ODDP is giving lower funding ranges in this situation. However, one thing that the ODDP considers is unpaid care that is available to you. There are questions on the ODDP about your living arrangement and about whether you live alone, with family members or with others. There is also a series of questions on the ODDP that asks about a “routine voluntary caregiver.” The questions include whether your caregiver is able and willing to continue to provide services. Your caregiver is not required to provide a specific amount of voluntary care.

The questions also ask about the number of hours per week that your voluntary caregiver provides different kinds of care for you. Carefully consider the number of hours of assistance that your voluntary caregiver assists you in each of the areas of care. You can be conservative in your estimates of these hours. You do not need to include hours where your caregiver assists a paid staff person (for example, if your caregiver helps bathe you but cannot do it alone). Remember when you estimate these hours that this is “routine” care and does not include hours where your paid staff person is ill or does not show up to work.



Make sure that the person who is completing the ODDP knows about a family member’s ability and willingness to provide routine care. For example, if your voluntary caregiver has a bad back and should not be lifting you, or if your voluntary caregiver is your spouse and must work and take care of children, this will affect their ability to provide care and the need for assistance. Make sure this information is reflected in the answers to the ODDP.

Question 6

Is the ODDP going to make any difference in my waiver?

Answer

If the ODDP gives you a funding range that will pay for the level of services you receive now, there will be no change to your waiver services. For many people the funding range determined by the ODDP will be the same as it has been. For some people it could result in a decrease, or even increase the amount of funding available under your waiver. The ODDP is only the first step in determining what waiver services you will receive.

Question 7

After the funding range is determined, what is the next step?

Answer

You now need to meet with your team to develop a proposed Individual Service Plan (ISP), because this is the document that sets out the type of services and units of service that you need. The development of the ISP determines services you need - the ODDP does not. Do not consider the ODDP funding range when determining your needs. Do not sign your ISP yet. The county board will apply the reimbursement rates to those services to see if the services on the ISP fall within the funding range that was determined by the ODDP. If the services that you need cost more than the funding range, there is a process to ask for more funding.



If the funding range fits your services, and you are otherwise satisfied with the ISP, and the county board is ready to transition you to the new funding system, then you can sign your ISP. If the services in your ISP cost more than your funding range, there are options you can consider, including a process that is set up to ask for more funding.



Statewide rates have been developed for the first time for the IO waiver. County boards must apply the rates for their geographic area to the specific services you need (as developed in your proposed ISP).

ODDP Step-by-Step:

- ✓ Step 1 Completion of the ODDP.
- ✓ Step 2 ODDP provides a funding range.
- ✓ Step 3 Team meeting decides if services and funding range work.

Question 8

Is the new funding range going to take effect immediately?

Answer

If you were enrolled on the IO waiver on July 1, 2005 or later, the new waiver funding is already in effect. Prior authorization is required for higher funding (prior authorization is described starting with question 11). If you were enrolled on the IO waiver before July 1, 2005 your county board of MRDD has developed a transition plan for when it will transition individuals in that county. Some people have already transitioned to the new funding range. There may be some people who have had some reduction in services but are not yet within their funding range.

The new funding range does not have to take effect right away if the ODDP gives you less money to pay for your waiver services than what you currently receive. You can ask your county board about its plan for transitioning you.



You should never have your services reduced without being given information about your right to appeal that decision.

Question 9

I have been told that I need to get a roommate in order to meet the funding range I have received. Do I have to do this?

Answer

If the services you need that are outlined in your ISP are more expensive than the funding range that you received from the ODDP, one option that you can consider is to share your waiver services with another person. Having a staff person work with two people in one setting costs less than providing services to only one person. You do not have to choose this option.

There will be people currently living by themselves and getting IO waiver services who will not be able to get the same level of services under the new reimbursement system. They may find this roommate option to be the best way to get the services that they need under the waiver.

There have been cases where it has been suggested that a person who lives with their family and receives waiver services should have another person who receives waiver services move in with the family. There is no obligation for a family to do this. If a person who lives with their family is given a significantly lower funding range than they have had, it may be that there is a flaw in how the computer program considers unpaid family support. Requesting more funding through the process described in the upcoming questions should be considered in this situation.



The criteria used to approve or deny a request for higher funding will include a requirement that the additional services requested must be “the most efficient AND effective services that when combined with other non-waiver funded services ensure the health and safety of the individual.” If you need to ask for higher funding rather than getting a roommate, consider how having a roommate would change the effectiveness of the waiver services.



For a child under age 21 there are other alternatives through HealthChek, especially in the family home.

Question 10

The services in my proposed ISP cost more than the funding range that I received from the ODDP. What can I do?

Answer

The first step is to make sure that the answers that were completed on your ODDP are accurate. Make sure that the people you wanted to provide input were able to and that their input is reflected in the answers.



You can request at any time that any (or all) of the answers on the ODDP be revised if the answers do not adequately reflect your needs.

The second step, if step 1 does not result in the funding range that you think you need, is to work with the county board of MRDD to ask for services and supports that exceed that funding range. This is the beginning of a process called prior authorization, in which the state can approve services beyond the funding range allowed by the ODDP.



You have the right to ask for higher funding.



A child (under age 21) may have rights to expanded services under the HealthChek program.

ODDP Step-by-Step:

- ✓ Step 1 Completion of the ODDP.
- ✓ Step 2 ODDP provides a funding range.
- ✓ Step 3 Team meeting decides if services and funding range work.
- ✓ Step 4 Review and revise ODDP if needed.

Question 11

How do I ask for more funding for my waiver services?

Answer

This process is called “prior authorization” and is required to get services that exceed your funding range. The person (or their parent or guardian) requests prior authorization for higher funding. The county board of MRDD cannot request higher funding without the person’s agreement. Prior authorization has to be requested in writing and submitted to the Ohio Department of Mental Retardation and Developmental Disabilities. The county board of MRDD is required to help you complete the request. If you send the request directly to the state, the county board will be notified of your request and will be asked for additional information. The following steps should be done before you submit a request for prior authorization.

- √ (1) The ODDP has been completed;
- √ (2) You have been told your funding range;
- √ (3) You have an Individual Service Plan (ISP) meeting to determine specifically what services you need; and
- √ (4) The statewide rates for those services have been applied.



The rule that governs the Prior Authorization Process is Ohio Administrative Code 5101:3-41-12. You can obtain a copy online at

<http://odmrdd.state.oh.us/medicaid/5101-3-41-12PriorAuthWaiver.pdf>

or ask your county board of MRDD for a copy.

Question 12

Is there a form that I use to ask for higher funding?

Answer

Yes. There is a form, called a Prior Authorization form, that you can get from your Service and Support Administrator at the county board of MRDD, or you can get it online at

<http://odmrdd.state.oh.us/forms/9-05ReqPriorAuthWaiver.pdf>



If the waiver recipient is a child under age 21, you may want to write the words “HealthChek/EPSTDT” on the Prior Authorization form to alert the state that the child may be eligible for expanded services.

ODDP Step-by-Step:

- ✓ Step 1 Completion of the ODDP.
- ✓ Step 2 ODDP provides a funding range.
- ✓ Step 3 Team meeting decides if services and funding range work.
- ✓ Step 4 Review and revise ODDP if needed.
- ✓ Step 5 Seek prior authorization as needed.

Question 13

What if the county board doesn't agree with my request for higher funding?

Answer

You still have the right to ask for the higher funding range. While it might be best to work with the county board to see if you can reach an agreement for requesting higher funding and additional services, the county board does not have the final say in the decision. If the county board is not going to support your request for more funding, then it is important that you provide more information to the Ohio Department of MRDD. The county board will specifically be asked about whether your request meets the four criteria that the state uses to decide your request (see Question 14).



You have the right to ask for a higher funding range, with or without the agreement of the county board.



Get documentation from your doctor, other professionals and from your provider that supports your request for more funding. Submit that material with your prior authorization request.

Question 14

How will the state decide if I can get a higher funding level?

Answer

There are four criteria that you must meet to be eligible for prior authorization of a higher funding level. The services requested through prior authorization must be:

- √ (1) appropriate to your health and welfare needs, living arrangement, circumstances and expected outcomes; and
- √ (2) of the appropriate type, amount, duration, scope, and intensity based on your needs [this is what your ISP describes]; and
- √ (3) the most efficient and effective services that, when combined with other non-waiver funded services, ensure your health and welfare; and
- √ (4) necessary to protect you from substantial harm expected to happen if the requested services are not authorized.



Although the rules state that you must meet all four criteria to be approved for prior authorization, some of the criteria are more restrictive than what applies to a child under HealthChek. Make sure that the prior authorization form that you sign for your child under age 21 includes the words “EPSDT/Healthchek”.

Question 15

What is the process when a request for higher funding gets to the Ohio Department of MRDD?

Answer

If you sent the request directly to the Ohio Department of MRDD they will contact your county board of MRDD to tell them and to request documents from the county board. The county board must send the needed documents within five days. The timeline for responding to the request is expected to be within 20 days, but failing to respond within the timeline does not mean that the request is approved. As of the date of this publication the Ohio Department of MRDD was running late on these requests.

The Ohio Department of MRDD can approve the request. If they approve the request they will notify you in writing. If they cannot approve the request they must send it on to the state Medicaid agency – the Ohio Department of Job and Family Services (ODJFS).

ODJFS can:

- ✓ approve the request as it is;
- ✓ disapprove the request; or
- ✓ approve an amount less than the request, but more than the ODDP funding range.



You must be notified in writing of the decision and of your right to appeal the decision.

Question 16

What if I don't agree with the decision that the Ohio Department of Job and Family Services makes?

Answer

If the Ohio Department of Job and Family Services does not approve your request they must notify you in writing and provide you the opportunity to appeal their decision through the Medicaid fair hearing process. You can request a hearing where you can present information and testimony about why your request should be approved. If you file your request for a hearing within 15 days of notification, you will keep your current level of services during the appeal process.



Since the IO waiver is a Medicaid service you can not have services reduced or terminated without being given the right to appeal that decision in what is called a Medicaid "Fair Hearing."

ODDP Step-by-Step:

- ✓ Step 1 Completion of the ODDP.
- ✓ Step 2 ODDP provides a funding range.
- ✓ Step 3 Team meeting decides if services and funding range work.
- ✓ Step 4 Review and revise ODDP if needed.
- ✓ Step 5 Seek prior authorization as needed.
- ✓ Step 6 Appeal denial of prior authorization if appropriate.

Question 17

How can I find out about Medicaid fair hearings?

Answer

Learn more about Medicaid fair hearing rights through the following resources:

- (1) From the Medicaid agency's brochure, reprinted on the next two pages, and online at <http://www.odjfs.state.oh.us/forms/file.asp?id=45330>
- (2) Ask your Service and Support Administrator (SSA) at your county board of MRDD for information.
- (3) Contact Ohio Legal Rights Service at 1-800-282-9181 or your local legal aid society.

Another Option

A county conference is an informal meeting with a person from the local agency to settle an issue without the need for a state hearing.



Often, this is the quickest way to solve a problem. At this meeting, your case is reviewed with you. If a mistake was made, it can be corrected **without** a state hearing. Ask your caseworker for a county conference if you believe a mistake occurred. A county conference will not delay a state hearing.

How Do I Request a Hearing?

You may call or write your local CDJFS or write to ODJFS Bureau of State Hearings, PO Box 182825, Columbus, Ohio 43272-5376, or fax your request to State Hearings at 614-728-9574. If you get a letter about changes to your assistance, JFS #4059 will be attached to the letter to request a hearing. Fill out that form and return it to State Hearings within 90 days.



How Will I Be Notified of the Hearing Date and Location?

A notice of the date, time and location of the hearing will be mailed to you at least 10 days before the hearing.

The hearings are usually held at the local CDJFS. If it is not possible for you to come to the hearing as scheduled, you can ask for it to be rescheduled.

If you do not attend the hearing, your case will be dismissed. If you want to continue the hearing, you must contact State Hearings within 10 days from the dismissal.

If you feel you were wrongly denied Medicaid coverage, you have the right to a state hearing. Call your local agency or write:

Ohio Department of Job & Family Services
Bureau of State Hearings
P.O. Box 182825
Columbus, Ohio 43272-5376

For more information about the Ohio Medicaid program, please call:
1-800-324-8680
TDD 1-800-292-3572
or contact your county office of job & family services.

Legal Aid Society
1-800-589-5888

If you feel that you have been discriminated against, send your complaint to:

Bureau of Civil Rights
Office of Employee & Business Services
Ohio Department of Job & Family Services
150 East Gay Street, 18th Floor
Columbus, OH 43215



jfs.ohio.gov/ohp

JFS 08031 (Rev. 03/2006)

For additional copies, please fax requests to (614) 728-7724. Please include the form number.

Medicaid State Hearings



What Medicaid Consumers Need to Know About State Hearings

What is a State Hearing?

A state hearing is a meeting with you, someone from the agency that made the decision you are appealing, and a hearing officer from the Ohio Department of Job and Family Services (ODJFS).

A hearing officer will listen to both sides. You will get a decision in the mail a few weeks later.

When Should I Request a Hearing?

You may request a hearing when you believe:

- The Medicaid services or benefits you are currently getting were reduced or terminated wrongfully.
- You were incorrectly denied Medicaid assistance or services.
- Your Medicaid application or request has not been acted on timely (within 45 days).
- The agency has made an incorrect determination.

Will I Continue to Receive Benefits?

If you get a notice that your Medicaid benefits will change and your hearing request is received within 15 days of the notice, your benefits will not change.

If your benefits or services have changed without written notice, or the change was made even though you requested a hearing, you can call 1-866-ODJFS-4U (1-866-635-3748).

What Will Happen at the Hearing?

Step 1 The hearing officer will listen to the agency's explanation of the action they took on your case. You will then have a chance to say why you think it is wrong.	Step 2 The hearing office will review the facts and make a decision on whether or not the rules were followed in your case.
Step 3 The decision will be mailed to you.	Step 4 If you disagree with the decision, you can request an administrative appeal.

You may bring witnesses, friends, relatives or your lawyer to help you present your case. You and your representative will have the right to look at the evidence used at the hearing, present your side of the case, ask questions, and bring evidence to support your case.

The hearing will be tape recorded so the facts are taken down correctly. You can request a free copy of the tape after the hearing decision is issued.

What Happens After the Hearing?

After the hearing, you will get the hearing decision in the mail. The decision will list all the facts and testimony from the hearing and the hearing officer's recommendations for the agency. The hearing will be either **sustained** or **overruled**.

If the hearing is **sustained**, it means the decision was in your favor in some way.

If the hearing is **overruled**, it means that the hearing officer decided in the agency's favor.

If you disagree with the hearing officer's decision, you may request an administrative appeal. A request for an administrative appeal must be in writing and received within 15 calendar days of the hearing decision.



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