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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 246  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Cutrona and Brewer

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### SUMMARY

- Requires the Ohio Department of Aging (ODA) and the Ohio Department of Medicaid (ODM) to take specified actions regarding self-directed services under the PASSPORT, Ohio Home Care, and MyCare Ohio home and community-based services waivers.
- Enumerates actions ODA and ODM must take to streamline the provider certification and participant enrollment processes for self-directed services under those waivers.
- Requires ODA and ODM to establish goals for the number of waiver participants electing to participate in self-directed services.
- Requires ODA and ODM to ensure that electing waiver participants are enrolled in and able to receive self-directed services within 30 days after applying.
- Requires the Medicaid Director to expand the MyCare Ohio demonstration project to all Ohio counties and to include options for participants to self-direct services.
- Requires the Medicaid Director to annually report to the Joint Medicaid Oversight Committee and General Assembly the number and percent of waiver program participants offered and electing to self-direct Medicaid services, respectively.

### DETAILED ANALYSIS

#### Overview

The bill requires the Ohio Department of Aging (ODA) and the Ohio Department of Medicaid (ODM) to streamline self-directed service options for participants in certain home and community-based services (HCBS) Medicaid waivers in Ohio. Self-directed services are services that are planned and purchased under the direction and control of the individual who will

receive the services, or the individual's authorized representative. The control generally relates to the amount, duration, scope, provider, and location of the services.<sup>1</sup> Self-direction gives Medicaid recipients decision-making authority over their services, and is an alternative to a traditional agency service delivery model.<sup>2</sup>

## **Streamline self-directed service processes**

The bill requires ODA and ODM to streamline the direct service worker certification process and the waiver participant enrollment process for self-directed services under the following Medicaid HCBS waivers:

- The Medicaid-funded portion of the PASSPORT program;
- The Ohio Home Care waiver; and
- The MyCare Ohio HCBS waiver. (MyCare Ohio, referred to in statute as the Integrated Care Delivery System, is a demonstration program and an HCBS waiver program for individuals eligible for both Medicare and Medicaid.)

For purposes of this requirement, ODA and ODM must do all of the following to streamline the certification and enrollment processes for self-directed services under the waivers:

1. Combine waiver participant orientation meetings into one meeting;
2. Establish timelines for completing direct service worker certification processes;
3. Establish reporting requirements to monitor compliance with the above timelines;
4. Combine the direct service worker certification and participant enrollment steps concurrently rather than sequentially, to the extent possible;
5. Collect and compile data on when a waiver participant requests self-directed services and the start date of those services;
6. Permit direct service workers and participants to apply separately and be certified or enrolled without first requiring a match between a direct service worker and a waiver participant;
7. Permit direct service workers to provide conditional self-directed services for up to 60 days while undergoing any required criminal background checks and training.<sup>3</sup>

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<sup>1</sup> 42 United States Code (U.S.C.) 1396n(i)(1)(G)(iii)(II).

<sup>2</sup> Medicaid.gov, [Self-Directed Services](#), which is accessible by conducting a keyword search of "self-directed services" on CMS' website: [www.medicaid.gov](http://www.medicaid.gov).

<sup>3</sup> R.C. 173.525(A), (B), and (C); R.C. 5166.122(A), (B), (C), and (D); and R.C. 5166.162(A), (B), and (C).

## **Implementation timeline**

ODM must implement the above requirements under the Ohio Home Care waiver as soon as practicable, but within one year of the bill's effective date. There is no implementation timeline under PASSPORT or the MyCare Ohio waiver.<sup>4</sup>

## **Timeline for receipt of self-directed services**

Additionally, the bill requires ODA and ODM to ensure that waiver participants are enrolled in and able to receive self-directed services within 30 days after applying. Each department must create an exception to this requirement for use in the event that there are insufficient direct service workers or are other delays that are not the fault of the direct service workers or the waiver participant.<sup>5</sup>

## **Participant participation goals**

The bill requires ODA and ODM to establish goals for the number of waiver participants electing to participate in self-directed services.<sup>6</sup>

## **National provider identifier exemption**

Under the bill, direct service workers who are not health care providers but are providing self-directed services to waiver participants are categorized as atypical providers exempt from the Health Insurance Portability and Accountability Act (HIPAA) national provider identifier requirement. For purposes of this provision, a health care provider is a person who provides, bills for, or is paid for medical or health services in the normal course of business. A national provider identifier is a unique identification number that certain health care providers must use in transactions governed by HIPAA. The bill specifies that instead, a Medicaid provider number or another unique identifier will replace the national provider identifier requirement for those direct service workers.

To implement this requirement, ODA or ODM must modify its Medicaid electronic visit verification system (which is used by caregivers for some home and community-based services to document visit data) to use the financial management services' system rather than the vendor used for traditional Medicaid services.<sup>7</sup>

## **Rulemaking authority**

The bill requires ODA and ODM to adopt rules to implement the above requirements.<sup>8</sup>

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<sup>4</sup> R.C. 173.525(B), 5166.122(B), and 5166.162(B).

<sup>5</sup> R.C. 173.525(B)(2), 5166.122(C)(2), and 5166.162(B)(2).

<sup>6</sup> R.C. 173.525(D), 5166.122(E), and 5166.162(D).

<sup>7</sup> R.C. 173.525(E), 5166.122(F), and 5166.162(E); 45 Code of Federal Regulations 160.103, not in the bill.

<sup>8</sup> R.C. 173.525(F), 5166.122(G), and 5166.162(F).

## MyCare Ohio expansion

The bill also expands self-direction of Medicaid services under the MyCare Ohio demonstration project. As soon as practicable, the Medicaid Director must expand MyCare Ohio so it is available in all Ohio counties and must include options for participants to self-direct services, such as having authority over provider and budget matters.<sup>9</sup>

## Report

The Medicaid Director must annually report to the Joint Medicaid Oversight Committee and General Assembly the number and percent of waiver program participants *offered* the option to self-direct Medicaid HCBS services and the number and percent of participants *electing* to self-direct Medicaid HCBS services under:

- The PASSPORT program;
- The Ohio Home Care waiver; and
- The MyCare Ohio HCBS waiver.<sup>10</sup>

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## HISTORY

Action	Date
Introduced	07-20-23

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<sup>9</sup> R.C. 5164.91.

<sup>10</sup> R.C. 5162.137.