

5160-59-04

**OhioRISE home and community-based services waiver:
eligibility and enrollment.**

(A) To be eligible for the Ohio resilience through integrated systems and excellence (OhioRISE) home and community-based services (HCBS) 1915(c) waiver (waiver), a youth will be determined by the Ohio department of medicaid (ODM) to meet all of the following:

(1) Meet eligibility criteria set forth in paragraphs (A)(1) to (A)(3) of rule 5160-59-02 of the Administrative Code;

(2) Be determined to meet the following level of care (LOC) criteria for an inpatient psychiatric (IP) services through an IP LOC assessment:

(a) For youth age six through twenty years of age have a comprehensive Ohio children's initiative child and adolescent needs and strengths (CANS) assessment, using the tool available on <https://www.medicaid.ohio.gov> (September 20, 2021), completed by a certified Ohio children's initiative CANS assessor employed by or under contract with the care management entity (CME) described in rule 5160-59-03.2 of the Administrative Code, indicating paragraphs (A)(2)(a)(i), (A)(2)(a)(ii), and either paragraph (A)(2)(a)(iii) or (A)(2)(a)(iv) of this rule are met:

(i) For behavioral/emotional needs domain items, at least two of the following items are dangerous or disabling and need immediate action or three or more of the following items are at least interfering with functioning and need action to ensure that the identified need is addressed:

(a) Psychosis;

(b) Impulsivity/hyperactivity;

(c) Depression;

(d) Anxiety;

(e) Oppositional behavior;

(f) Conduct;

(g) Adjustment to trauma;

(h) Anger control;

- (i)* Substance use;
 - (j)* Eating disturbance;
 - (k)* Attachment difficulties;
 - (l)* or Interpersonal problems (for youth age fourteen and older).
- (ii) For risk behaviors domain items, at least ~~two~~one of the following items are dangerous or disabling and need immediate action or ~~three~~two or more of the following items are at least interfering with functioning and need action to ensure that the identified need is addressed:
 - (a)* Suicide risk;
 - (b)* Non-suicidal self-injury behavior;
 - (c)* Other self-harm;
 - (d)* Danger to others;
 - (e)* Delinquent behavior;
 - (f)* Runaway;
 - (g)* Intentional misbehavior;
 - (h)* Fire setting;
 - (i)* Victimization/exploitation;
 - (j)* Sexually problematic behavior.
- (iii) For the caregiver resources and needs domain, at least one of the following items is dangerous or disabling and needs immediate action or two or more of the following items are at least interfering with functioning and need action to ensure that the identified need is addressed:
 - (a)* Supervision;
 - (b)* Residential stability;
 - (c)* Medical/physical;

(d) Mental health;

(e) Substance use;

(f) Family stress;

(g) Knowledge;

(h) Caregiver post-traumatic reactions.

(iv) The youth has no current viable caregiver.

(b) For youth age birth through five years of age, have a comprehensive Ohio children's initiative CANS assessment, using the tool available on <https://www.medicaid.ohio.gov> (September 20, 2021), completed by a certified Ohio children's initiative CANS assessor employed by or under contract with the CME described in rule 5160-59-03.2 of the Administrative Code, indicating paragraphs (A)(2)(b)(i), (A)(2)(b)(ii), and either paragraph (A)(2)(b)(iii) or (A)(2)(b)(iv) of this rule are met:

(i) For early childhood domain items, at least two of the following items are dangerous or disabling and need immediate action or three or more of the following items are at least interfering with functioning and need action to ensure that the identified need is addressed:

(a) Impulsivity/hyperactivity;

(b) Depression;

(c) Anxiety;

(d) Oppositional behavior;

(e) ~~Adjustment~~ Adjustment to trauma;

(f) Regulatory;

(g) Sleep;

(h) Early education.

(ii) For risk behavior and functioning domain items, at least two of the following items are dangerous or disabling and need immediate action or three or more the following items are at least interfering

with functioning and need action to ensure that the identified need is addressed:

- (a) Self-harm;
- (b) Exploited;
- (c) Problematic sexual behavior;
- (d) Aggressive behavior;
- (e) Family functioning;
- (f) Social and emotional functioning.

(iii) For the caregiver resources and needs domain, at least one of the following items is dangerous or disabling and needs immediate action or two or more of the following items are at least interfering with functioning and need action to ensure that the identified need is addressed:

- (a) Supervision;
- (b) Residential stability;
- (c) Medical/physical;
- (d) Mental health;
- (e) Substance use;
- (f) Family stress;
- (g) Knowledge;
- (h) Caregiver post-traumatic reactions.

(iv) The youth has no current viable caregiver.

(c) Have a diagnosis of serious emotional disturbance (SED) as defined in rule 5122-24-01 of the Administrative Code, which needs to be documented through one of the following:

(i) A diagnostic assessment dated no more than two years prior to the date of application for the OhioRISE waiver with an applicable SED

diagnosis performed by a licensed practitioner operating within their scope of practice; or

- (ii) A treatment plan showing an applicable SED diagnosis signed by the licensed clinician that is the treating provider dated no more than two years prior to the date of application for the OhioRISE waiver, accompanied by the diagnostic assessment that resulted in the applicable SED diagnosis performed by a licensed clinician.
- (d) Have documented functional impairment and behaviors that substantially interfere with or limit the youth's role or functioning in family, school, or community activities which result in recommended institutionalization and potential relinquishment of custody to the child welfare system. Documented functional impairment and behaviors are indicated by the youth's CANS scores or by separate documentation provided by the youth or caregiver, and needs to include one or more of the following:
- (i) Youth's persistent physical abuse or violence that results in physical injury or emotional distress to caregivers, family members, others in the home and community; or physical destruction of property that impacts the youth's housing stability.
 - (ii) Youth's history of suicidal ideation with intent, or history of suicide attempts, within the past six months.
 - (iii) Youth's sexually problematic behavior that creates a safety risk for themselves or others without a high-level of direct supervision.
 - (iv) Youth's suspension or expulsion from school; or withdrawal from school, daycare, or preschool program as the result of the youth's actions/intensive behaviors.
 - (v) Law enforcement or child welfare contact or involvement due to the youth's intensive behaviors.
 - (vi) Youth has a history of victimization or exploitation, including human trafficking within the past twelve months, and re-victimization may be imminent. This may include physical or sexual abuse, sexual exploitation, or violent crime.
- (3) Have a completed IP LOC assessment as follows:
- (a) A LOC assessment determining a youth meets an IP LOC will be completed prior to initial enrollment on the waiver;

- (b) A LOC assessment determining a youth meets an IP LOC will be completed within three hundred sixty-five calendar days of the previous LOC assessment for continued enrollment on the waiver; and
 - (c) Once enrolled in the waiver, all youth who experience a significant change in situation impacting health and welfare will receive an IP LOC assessment following the event to determine continued enrollment on the waiver.
- (4) Be determined to have a need for, and agree to receipt of, at least one service available under the waiver that is otherwise unavailable through another source (including, but not limited to private pay, community resources, or the medicaid state plan). If a youth is anticipated to need waiver services less frequently than every thirty calendar days, the care coordinator is to indicate on the child and family-centered care plan the method of monitoring they will employ on at least a monthly basis to assure that the youth's health and welfare needs are met.
- (5) Have waiver needs which are less than or equal to the waiver services cost cap of fifteen thousand dollars in a twelve-month period. Once enrolled in the waiver, youth may have access to additional emergency funding as described in rule 5160-59-05.3 of the Administrative Code.
- (6) Have been informed of, as recorded during the course of an assessment or in an alternative manner at the discretion of ODM, all of the following:
 - (a) Service alternatives including the choice and election to receive services on an HCBS program in lieu of institutional services; and
 - (b) Choice of providers who meet provider qualifications as described in Chapter 5160-59 of the Administrative Code to provide services under the waiver.
- (7) Have needs that can be safely met in an HCBS setting through the waiver as determined by ODM or its designee.
- (8) Meet the following age criteria:
 - (a) Be between the ages of birth and twenty years of age at the time of initial enrollment; and
 - (b) Once enrolled, youth may continue enrollment on the waiver through the age of twenty-two, so long as the youth meets the other eligibility criteria set forth in paragraphs (A) and (B) of this rule.

- (9) Agrees to participate in the waiver, and while enrolled in the waiver, will not be simultaneously enrolled in another HCBS 1915(c) waiver or the specialized recovery services program as defined in rule 5160-43-01 of the Administrative Code.
- (B) Once eligibility to the OhioRISE waiver has been determined and before the OhioRISE waiver services described in rule 5160-59-05 of the Administrative Code can be provided, the youth will:
- (1) Participate in the development and implementation of the child and family-centered care plan in accordance with the process and criteria set forth in rule 5160-44-02 of the Administrative Code. The youth or their authorized representative will consent to the child and family-centered plan by signing and dating it by the thirtieth calendar day of eligibility; and
 - (2) Reside, and will continue to reside, in a setting that possesses the home and community-based setting characteristics set forth in rule 5160-44-01 of the Administrative Code. The youth may reside in a setting that does not meet the characteristics of a home and community-based setting while the waiver assessment process is being conducted. The waiver assessment process can begin up to ninety days prior to the youth residing in a home and community-based setting, as follows:
 - (a) The youth needs to reside with family or friends in a private residence, including family foster homes as defined in rule 5101:2-1-01 of Administrative Code; or
 - (b) The youth needs to reside alone in a private residence, when living alone is appropriate in the context of the youth's developmental needs and family or caregiver needs.
- (C) All youth enrolled into the OhioRISE waiver will be automatically enrolled with a managed care organization as defined in rule 5160-26-01 of the Administrative Code except for those excluded from managed care enrollment as defined in paragraph (B) (5) of rule 5160-26-02 of the Administrative Code.
- (D) If, at any time, a youth does not meet any of the eligibility criteria set forth in paragraphs (A) and (B) of this rule, with the exception of paragraph (A)(8)(b) of this rule, the youth will be denied enrollment to, or be disenrolled from, the waiver.
- (E) If a youth resides in an institution as described in rule 5160-44-01 of the Administrative Code; ~~resides in an institution, as described in rule 5160-44-01 of the Administrative Code, for more than ninety consecutive days, the OhioRISE plan will assess the youth~~

~~for potential disenrollment from the OhioRISE waiver. When the youth resides in an institution for longer than one hundred eighty consecutive days, the OhioRISE plan will initiate disenrollment from the OhioRISE waiver.~~

(1) For more than ninety consecutive days, the following will occur:

(a) The OhioRISE plan will assess the youth for potential disenrollment from the OhioRISE waiver.

(b) If the institution is an intermediate care facility for individuals with intellectual disabilities, the OhioRISE plan will initiate disenrollment from the OhioRISE waiver.

(2) For longer than one hundred eighty consecutive days, the OhioRISE plan will initiate disenrollment from the OhioRISE waiver.

(F) When a youth is disenrolled from the waiver for any reason, the following will occur:

(1) Dependent in which care coordination tier a youth is enrolled, in accordance with rule 5160-59-03.2 of the Administrative Code, either the care management entity (CME) or the OhioRISE plan will work to develop a transition of care plan at least thirty calendar days prior to disenrollment.

(2) Either the CME or the OhioRISE plan will work to identify needed supports for the ninety calendar days following disenrollment from the OhioRISE program.

(G) When a youth is denied enrollment to, or disenrolled from, the waiver for failure to meet eligibility criteria as set forth in paragraph (A) or (B) of this rule, the youth or their authorized representative will be afforded notice and hearing rights in accordance with division 5101:6 of the Administrative Code.

(H) The number of individuals enrolled in the waiver program will not exceed the centers for medicare and medicaid services authorized limit for the waiver program year.

Effective:

Five Year Review (FYR) Dates: 7/1/2027

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5167.02
Rule Amplifies: 5162.03, 5166.02
Prior Effective Dates: 07/01/2022, 07/27/2023