

5123:2-9-43

Home and community-based services waivers - functional behavioral assessment under the self-empowered life funding waiver.

(A) Purpose

The purpose of this rule is to define functional behavioral assessment and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Agency provider" means an entity that employs persons for the purpose of providing services.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Family member" means a person who is related to the individual by blood, marriage, or adoption.
- (5) "Functional behavioral assessment" means an assessment not otherwise available under the state medicaid program to determine why an individual engages in intensive behaviors and how the individual's behaviors relate to the environment. Functional behavioral assessments describe the relationship between a skill or performance problem and the variables that contribute to its occurrence. Functional behavioral assessments can provide information to develop a hypothesis as to why the individual engages in the behavior, when the individual is most likely to demonstrate the behavior, and situations in which the behavior is least likely to occur.
- (6) "Independent provider" means a person who provides services and does not employ, either directly or through contract, anyone else to provide the services.
- (7) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent. An individual who is his or her own guardian may designate another person to assist the individual with development of the individual service plan and budget, selection of residence and providers, and negotiation of payment rates for services; the individual's designee shall not be employed by a county board or a provider, or a contractor of either.
- (8) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

- (9) "Medicaid program" has the same meaning as in section 5111.01 of the Revised Code.
- (10) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- (11) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that shall include the items delineated in paragraph (E) of this rule to validate payment for medicaid services.
- (12) "Support broker" means a person who is responsible, on a continuing basis, for providing an individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services (particularly those associated with participant direction) in accordance with the individual service plan. The support broker assists the individual with the individual's responsibilities regarding participant direction, including understanding employer authority and budget authority, locating and selecting providers, negotiating payment rates, and keeping the focus of the services and support delivery on the individual and his or her desired outcomes. The support broker, working in conjunction with the service and support administrator, assists the individual with creating the individual service plan, developing the waiver budget, and doing day-to-day monitoring of the provision of services as specified in the individual service plan.
- (13) "Usual and customary charge" means the amount charged to other persons for the same service.
- (14) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility redetermination date.

(C) Provider qualifications

- (1) Functional behavioral assessment shall be provided by an independent provider or an agency provider that:
- (a) Meets the requirements of this rule;
 - (b) Has a medicaid provider agreement with the Ohio department of job and family services; and

- (c) Has completed and submitted an application and adheres to the requirements of paragraph (C)(2) of rule 5123:2-2-01 of the Administrative Code. The remainder of rule 5123:2-2-01 of the Administrative Code does not apply to providers of functional behavioral assessment.
- (2) Functional behavioral assessment shall be provided by persons who have the experience necessary to perform psychometric tests that assess an individual's functional behavioral level and who are one of the following:
- (a) Psychologist licensed by the state pursuant to Chapter 4732. of the Revised Code;
- (b) Professional clinical counselor licensed by the state pursuant to section 4757.22 of the Revised Code;
- (c) Professional counselor licensed by the state pursuant to section 4757.23 of the Revised Code;
- (d) Independent social worker licensed by the state pursuant to section 4757.27 of the Revised Code; or
- (e) Social worker licensed by the state pursuant to section 4757.28 of the Revised Code working under the supervision of a licensed independent social worker.
- (3) A county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards may provide functional behavioral assessment only when no other certified provider is willing and able.
- (4) Functional behavioral assessment shall not be provided to an individual by his or her family member.
- (5) Failure to comply with this rule and rule 5123:2-2-01 of the Administrative Code, as applicable, may result in denial, suspension, or revocation of the provider's certification.

(D) Requirements for service delivery

Functional behavioral assessment shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (K) of rule 5123:2-9-40 of the Administrative Code.

(E) Documentation of services

Service documentation for functional behavioral assessment shall include each of the following to validate payment for medicaid service:

- (1) Type of service.
- (2) Date of service.
- (3) Place of service.
- (4) Name of individual receiving service.
- (5) Medicaid identification number of individual receiving service.
- (6) Name of provider.
- (7) Provider identifier/contract number.
- (8) Written or electronic signature of the person delivering the service, or initials of the person delivering the service if a signature and corresponding initials are on file with the provider.
- (9) Description and details of the services delivered that directly relate to the services specified in the approved individual service plan as the services to be provided.

(F) Payment standards

- (1) The billing unit, service code, and payment rate for functional behavioral assessment are contained in the appendix to this rule.
- (2) Providers of functional behavioral assessment shall be paid no more than their usual and customary charge for the service.
- (3) An individual may receive only one functional behavioral assessment in a waiver eligibility span, the cost of which shall not exceed one thousand five hundred dollars.
- (4) Providers of functional behavioral assessment are prohibited from submitting claims under both the self-empowered life funding waiver and the state medicaid program for the same functional behavioral assessment.

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Certification

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