



We have the legal right of way.

MEDICAID: Waiting Lists, Emergency Status and Priority Status

What waiver programs does the Ohio Department of Developmental Disabilities (DODD) administer?

There are currently four waiver programs that are administered by the Ohio Department of Developmental Disabilities and respective county boards of developmental disabilities:

- the Individual Options (I/O) waiver program,
- the Level One waiver program,
- the SELF waiver program, and
- the Transitions DD waiver program.

These waiver programs provide funding for home and community-based services as an alternative to institutional care and allow people to live in their own homes in the community instead of an institution or facility.

WAITING LISTS

Why was I placed on a waiting list?

The county board creates a waiting list for waiver services if there are not enough resources to meet the needs of all individuals who request waiver services. There may be a waiting list for each waiver program.

If you ask to be enrolled on a waiver program for which there is a waiting list, you will be placed on the waiting list if you so choose. You can be on a waiting list for multiple waiver programs.

How do I find out what my waiting list position is?

Every year the county board will review your current status, reassess your service needs and tell you what your position on the waiting list is. You can also ask your service and support administrator ("SSA") to tell you what your position is.

What is the controlling date for placement on a waiting list?

Your “date of request” determines where you are placed on a waiting list. It is the first time you made any written or other documented request for home- and community-based waiver services. You can make a general request for some home- and community-based services (i.e., waiver programs)—you don’t have to specify which exact program you want. The request, including the date and time of request, must be included in your county board records.

Your position on the waiting list may vary if you are in a priority category and/or if your situation meets emergency status criteria (see below).

If I move to another county in Ohio, will I lose my waiting list position?

Your “date of request” remains the same; however, your waiting list position may change depending on when other people made requests in the new county. The waiting list will be reordered in the new county based on your original “date of request” for services.

For example, you may have been 10th on the waiting list in one county because there were nine people who had earlier request dates. If you move, you may be 15th on the waiting list in the new county because there are 14 people in that county who have earlier request dates than yours. There may also be more or fewer individuals in one county who meet priority categories or emergency status criteria than in another.

What can I do if I do not agree with the waiting list?

Due process is available to you if you disagree with an action of the county board related to the following:

- your “date of request,”
- the establishment or maintenance of a waiting list,
- your placement on a waiting list,
- the county board’s failure to offer services in accordance with a waiting list, or
- your removal from a waiting list.

There are two types of “due process” procedures. When a dispute involves the Medicaid program, you have the right to request a state hearing to appeal the decision. When a dispute involves a non-Medicaid service, you have the right to appeal a decision using the county board’s complaint/appeal process in Ohio Admin. Code 5123:2-1-12. If you disagree with the waiting list, you should probably use both procedures.

In addition to its complaint/appeal process, a county board may also have an informal process for resolving complaints and appeals. An attempt to informally resolve the matter is optional and does not affect your right to use the county board complaint/appeal process or Medicaid state hearing process.

When will I be enrolled on a waiver program?

When more waivers become available, a county board offers the waivers to the individual who is next on the waiting list after determining his or her eligibility.

You may be enrolled on a waiver program more quickly: if you meet a priority category and/or if you meet emergency status criteria. Because the waiting lists for the waiver programs are so long in certain counties, typically the only way one can be enrolled on a waiver program is by meeting emergency status criteria.

Unfortunately, because of the way the state of Ohio operates its service system, meeting emergency status criteria does not necessarily mean that an individual will be offered a waiver. The county board may attempt to resolve the emergency by other means, such as family support services or respite, as described below.

There are also a limited amount of state-funded waivers that may be available for a specific use. These waivers can be either Individual Options or SELF waivers. There are four categories of use:

- Waivers dedicated for people who want to leave Intermediate Care Facilities (ICFs) and return to community-based settings. These are sometimes called “exit waivers.” You can contact the Ohio Department of Developmental Disabilities to request an exit waiver.
- Waivers dedicated for people who seek admission to ICFs with 9+ beds and then decide they prefer to live in a community based setting. These are sometimes called “diversion waivers.”
- Waivers given to counties to decrease the number of people on the waiting list and targeted for people on the “regular” waiting list. These are sometimes called “waiting list reduction waivers.”
- Waivers dedicated for people who want to leave Developmental Centers (DCs) and return to community based settings. These are sometimes called “DC downsizing waivers.”

Finally, if you are enrolled in the IO or Level One waiver, you can ask to be enrolled in the SELF waiver and be transferred to SELF waiver if:

- Your needs can be more appropriately met by the SELF waiver,
- You meet all eligibility criteria for the SELF waiver, and
- The county board requests to enroll you in the SELF waiver.

Note that the SELF waiver has strict funding caps, so someone should be cautious when considering a transfer to the SELF waiver, particularly if he or she is already enrolled on the IO waiver.

PRIORITY STATUS

What are priority categories?

A county board will give you priority on a waiting list if you meet any of the following categories:

1. Refinancing of supported living and family support services:

- you are at least 18 years old, and

- you receive supported living or family support services.

2. Refinancing of adult services:

- you live in your own home or the home of your family,
- you will continue to live in that home after enrollment on the waiver program, and
- you receive adult services from the county board or from another provider with funding from the county board.

3. Aging Caregiver:

- you do not receive residential services or supported living,
- you have a primary caregiver who is at least 60 years old, and
- you either need services in your current home or will need services in a new home.

4. Intensive Needs:

You have at least one of the following service needs that is unusual in scope or intensity:

- severe behavior problems for which a behavior support strategy is needed;
- a mental health diagnosis for which medication has been prescribed;
- a medical condition that leaves you dependent on life-support medical technology;
- a condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services is needed; or
- a condition the county board determines to be comparable in severity to any condition described above and places you at significant risk of institutionalization.

5. Resident of intermediate care facility for individuals with intellectual disabilities (ICF)

6. Resident of nursing facility

These are considered “non-emergency” priority categories. People in these priority categories are ordered above people who are not in priority categories but below people who meet the “emergency status” priority criteria described below.

You can ask your SSA whether or not you have priority on the waiting list and your number on the waiting list.

EMERGENCY STATUS

What is “emergency status”?

“Emergency status” means you are facing a situation that creates for you a risk of substantial self-harm or substantial harm to others if action is not taken within 30 days.

Emergency status may result from one or more of the following:

- Loss of your current home for any reason, including legal action;
- Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker’s status, or inability of the caretaker to perform effectively for you;

- Being abused, neglected, or exploited;
- Health and safety conditions that pose a serious risk to you or others of immediate harm or death; or
- Change in emotional or physical condition that necessitates substantial accommodation that cannot be reasonably provided by your existing caretaker.

For example, if you are evicted from your home, your situation may meet emergency status criteria. If you had a family member who was caring for you and that person is no longer able to care for you, your situation may meet emergency status criteria. If you are being abused or neglected in your home or elsewhere, your situation may meet emergency status criteria.

Your situation does not have to meet one of the above five situations, but they are examples. Your situation just has to create for you a risk of substantial self-harm or substantial harm to others if action is not taken within 30 days.

You can ask the county board to determine that your situation meets emergency status criteria. You should make your request in writing if possible, but you do not have to.

What happens if my situation meets emergency status criteria?

If emergency status is granted, the county board can take the action it determines necessary to meet your need. If you meet emergency status criteria, you receive first priority on the waiver waiting list. However, because of the way the state operates its system, this does not necessarily mean you will be enrolled on a waiver program. For example, the county board could give you county board funding to pay for services, suggest you use emergency assistance funding under the Level One waiver, or suggest that you use other Medicaid services (such as home health services under the Medicaid state plan), etc. These alternative services suggested by the county board may not necessarily meet your needs, however.

What can I do if the county board denies my request for emergency status or I do not agree with their decision?

If the county board denies your request for emergency status and you do not agree with their decision, or if the county board grants you emergency status but does not enroll you on a waiver, you have the right to request a Medicaid state hearing, as well as file a complaint with the county board.

Also, if the county board proposes that you live and receive services in a placement that is too restrictive for you, this may violate the Supreme Court's decision in *Olmstead* and the Americans with Disabilities Act. For example, if the county board says that you need to live in an Intermediate Care Facility so that you are not at risk of harm, but you want to and are able to live in the community, this may violate your rights.

Is "emergency status" different from "emergency assistance" under the Level One waiver program?

Yes, although the standards are similar.

What is emergency assistance under the Level One waiver program?

If you are enrolled in the Level One waiver program, you have certain benefits that are capped at \$5,325 per year. However, if you are eligible for emergency assistance, your service and support administrator (“SSA”) can recommend that you receive up to \$8,520 of emergency assistance funds within a three-year period.

“Emergency assistance” means an increased amount of environmental accessibility adaptations, homemaker/personal care, informal respite, residential respite, personal emergency response systems, remote monitoring and remote monitoring equipment, specialized medical equipment and supplies, or transportation necessary to support you in an emergency situation.

If you are enrolled on the Level One waiver program, you are eligible for emergency assistance if you:

- Have lost your current home for any reason, including legal action;
- Have lost your present caregiver for any reason, including death of caregiver or change in caregiver’s mental or physical status resulting in the caregiver’s inability to perform effectively for you;
- Have been the victim of abuse, neglect, or exploitation;
- Have health and welfare conditions that pose a serious risk to you of immediate harm or death; or
- Have significant changes in your emotional or physical condition that necessitate substantial, expanded accommodations that cannot be reasonably provided by your present caregiver.

The need for emergency assistance is determined through the individual service plan (ISP) development process. You can request emergency assistance from your SSA.

What can I do if the county board denies my request for emergency assistance under the Level One waiver program?

Because waiver services are funded by Medicaid, you have the right to request a Medicaid state hearing if the county board denies your request for emergency assistance under the Level One waiver program.

MORE INFORMATION

Where can I find more information?

The Ohio laws and regulations regarding waiting lists and emergency assistance can be found on the state of Ohio codes website (codes.ohio.gov):

- Ohio Administrative Code § 5123:2-1-08 Waiting lists
- Ohio Revised Code § 5126.042 Waiting lists for services
- Ohio Administrative Code § 5123:2-9-27 Emergency Assistance under the Level One Waiver