

Ohio Department of Mental Retardation and Developmental Disabilities

Protocol for Monitoring and Compliance of HCBS Waiver Providers

I. Introduction

Inherent in a home and community-based waiver program is the state's responsibility to assure the health, safety and welfare of waiver recipients. This is accomplished, in part, by assuring that waiver providers are properly qualified to provide waiver services. The Department of Mental Retardation and Developmental Disabilities (department) has developed a process for the initial certification and ongoing review of waiver providers to ensure that providers continue to maintain the qualifications and standards required for each waiver service for which a provider is certified.

This protocol establishes the procedures for conducting monitoring and compliance reviews of providers of waiver services. These reviews will be conducted by employees or agents of County Boards of MR/DD (county boards) and by staff of the department.

The elements of the protocol are developed in accordance with rule 5123:2-9-08 of the Administrative Code and reflect the requirements outlined in the rule. This protocol and its accompanying forms are to be used by the county boards and the department and may not be modified or augmented in any way. The goal of the protocol is to establish a consistent and equitable process for the review and issuance of reports to determine compliance with continuing provider qualifications regardless of whether the review is conducted by county board or department staff.

The focus of compliance reviews is to verify that certified waiver providers are maintaining the standards and qualifications of each waiver service for which the provider is certified. The attention of the reviewer should be directed on reviewing the records and documents of the provider and waiver recipient that can verify compliance with provider standards. In some cases this should also involve interviews with provider staff and service recipients.

II. Types of Reviews

The rule requires that compliance reviews of certified providers be conducted so that each certified provider that bills for services is reviewed at least once every five years. Certified providers (IOW or RFW), that are licensed providers will only be reviewed by department staff in accordance with licensure rules. Even though providers are certified on a statewide basis, each provider that provides services in a given county must be reviewed at least once every five years. Therefore, an agency that provides services in six counties would receive a compliance review in each of those six counties at least once every five years. In order to achieve this requirement, the department must coordinate the reviews of providers with the county board and will utilize a variety of reviews. These reviews may include any one or combination of the following types of reviews:

A. Regular Reviews

A regular review is a review that is scheduled and will be conducted by either the county board or the department during the course of the year. At the beginning of each calendar year, the department will develop and coordinate with each county board a schedule of reviews to be conducted by the county board and the department during the course of the year. This schedule will take into consideration the number of certified waiver providers in each county, providers that may be certified in multiple counties, the services for which providers are certified, the last time a review was conducted on a provider, and the number of individuals served by that provider. Each county board will receive a schedule that indicates the providers to be reviewed, who will conduct the review (county board or department), the review format, and a timeframe by which each review must be completed.

When a provider is selected for a regular review, all the waiver services for which the provider is certified are to be reviewed, although one service may be reviewed via a desk review, while another service may require an on-site review.

The department conducts provider compliance reviews of the county board when the county board is a certified provider of waiver services and/or when any of the conflict of interest circumstances listed in the compliance rule exist.

B. Special Reviews

A special review may be conducted as a result of an MUI, a complaint concerning the provider's services or other indications that the provider is failing to maintain provider certification standards. The need to conduct a special review should be based on credible information or allegations that conditions or actions pertaining to provider certification standards have or could adversely affect the health, safety, and/or welfare of the waiver recipient. Random, special reviews may be conducted by the department of county board as long as the criteria for

conducting random reviews is fairly and consistently applied to all providers in a county. A special review may be initiated and conducted by either the county board or the department and may be done as either a desk or on-site review. When a special review is conducted, only the waiver service that is impacted by the circumstances is to be reviewed.

A special review may be conducted regardless of whether that provider is scheduled for or has already received a regular review during the year.

C. Look-Behind Reviews

A look-behind review is conducted by the department of a sample of certified providers that have been reviewed by the county board during the calendar year to verify the county board conducted its reviews in conformance with the rule requirements outlined in rule 5123:2-9-08 of the Administrative Code. The department will determine the number of look-behind reviews to be conducted but a provider or county board may request that the department conduct a look-behind review. A look-behind review may be conducted as either a desk or on-site review.

When conducting a look-behind review, the department will provide the county board with not less than fourteen days prior notification. The department will provide the county board with a written report of its findings within fourteen days of the conclusion of the report. The report will outline positive findings as well as any deficiencies in the way the county board conducted its review of the provider.

If the report identifies deficiencies, the county board must submit a plan of correction (POC) to the department within fourteen days of receipt of the report. The department will review and approve the POC and verify that it is implemented.

The county board may appeal any deficiencies identified in the report by submitting a written appeal to the department within fourteen days of the county board's receipt of the report. The department will provide the county board with a written determination of its appeal within fourteen days of the department's receipt of the appeal.

III. Review Format

There are two types of formats that a county board or the department may utilize to conduct provider reviews that will indicate continuing compliance with certification standards. The format used will be largely dependent upon the waiver service to be reviewed and the certification standards of those services.

A. Desk Reviews

A desk review is conducted by reviewing information submitted by the certified provider that verifies the provider meets the continuing qualifications and standards specified for the applicable waiver service. Desk reviews do not require a site visit by the reviewer and would be typically utilized to verify provider qualifications for those waiver services that do not involve significant direct contact between the provider and waiver recipient and can be easily verified by submitting the required documentation through the mail or fax. Either the county board and/or the department may conduct desk reviews of providers. A desk review may be utilized for regular or special reviews.

B. On-Site Reviews

An on-site review involves a visit by the reviewer to the provider's office and/or the location where services are provided to the waiver recipient. On-site reviews are most appropriate when the waiver service involves a significant amount of direct contact between the provider and the waiver recipient. The type and complexity of services provided and the potential impact those services have on an individual's health, safety and welfare would also indicate whether an on-site review is appropriate. A county board and/or the department may conduct on-site reviews. An on-site review may be utilized for regular or special reviews.

IV. Sample Selection

Reviews of a sample of certified waiver providers are an acceptable method to determine ongoing compliance with certification standards. Providers are selected for desk or on-site reviews through a sampling process and are assured to receive a review at least once every five years. The sampling process is not intended to produce a statistically valid sample of waiver providers throughout the state.

A. Provider Sample Selection

The department will coordinate with the county board with a schedule regarding the reviews to be conducted by the county board and the department during the course of that year. The schedule will be reflected in quarterly timeframes and will be developed with the county board no later than 90 days prior to the beginning of a review quarter. The schedule will include the following information:

1. The name of the provider that billed for services in the county the previous year;
2. The service(s) for which each provider is certified;

3. Those providers designated by the department for whom the county board is to conduct on-site or desk reviews; and
4. Those providers designated by the department for whom the department is to conduct on-site or desk reviews; and
5. The time period during which the county board and department must conduct the specified review.

Providers are not subject to review by the county board when:

1. The provider is a county board or council of governments; or
2. The county board appoints or approves the majority of the provider's board members or officers; or
3. The majority of the provider's management or non-management staff are employees of the county board; or
4. The county board provides funding, office space or other material worth more than \$500 annually.

In these situations, the department will conduct the compliance reviews.

B. Selecting Sample Records

While the sampling process is not intended to produce a "statistically valid" sample, it is necessary to conduct a review of those items specific to the service for which the provider is certified in order to determine compliance with continuing certification standards. These records include documentation related to the provision of services to the individual as well as staff records to verify that employees meet the standards and qualifications required by the service. The number of employees to be reviewed is determined by drawing a sample of records based on the number of individuals served by the provider in the county where the review is conducted.

As part of its preparation for the review, the county board or department shall request a list of direct service staff from the provider. The number of employee records to be reviewed is then based on the chart below. If the review of these initial sample records indicates a significant number of deficiencies, the county board or department may expand its review to include additional employee records to determine the scope of the deficiencies.

When conducting a special review, the number of personnel and individual records to be reviewed would be dependent upon the nature and scope of the circumstances that required the review.

Number of Individuals Served by Provider	Employee Records to be Reviewed
1 – 2	1
3 – 5	2
6 – 10	4
11 –15	5
16 – 32	6
33 – 75	8
Over 75	10

Based on the service being reviewed (e.g. H/PC) it would also be necessary to include sample reviews of service recipients’ service plans, MUIs, medication administration records and other service specific standards. The individuals reviewed should be those persons served by the staff who have been selected for the sample review.

At a separate time or in conjunction with the provider compliance review process, the county board or department may conduct quality assurance reviews, as specified in OAC 5123:2-12-01. In either case, information obtained as a result of a quality assurance review that indicates non-compliance with provider certification standards may require a special compliance review be conducted as described in this protocol. Quality assurance reviews are not compliance reviews and should not be used as such.

V. Review Process

In order to maintain as consistent a review process as possible, the following procedures should be followed, regardless of whether the reviews are conducted by the county board or the department.

A. Provider Notification of Regular Review

A provider selected for a regular review to be conducted by the county board or the department shall be notified in writing no earlier than 21 calendar days and no later than 10 calendar days in advance of the review. The sample letter contained in Appendix A of this protocol shall be used to notify the provider. The letter may be adapted to indicate the details of the review. The county board or department must keep a copy of this letter as well as all correspondence with the provider for its files.

If the review is an on-site review, the notification shall include the location, proposed date and time of the review, the records and information the provider needs to have available for the review, any persons that need to be present during the review and a tentative schedule of the review process. If the provider responds that the proposed date is not possible, the department or county board should attempt to reach a mutually agreeable date for the review. The department and county board must, however, meet the timelines for the completion of reviews. A

representative from the county board or the department should confirm the review schedule the week prior to the scheduled review date.

If the review is to be conducted as a desk review, the notification must include the service to be reviewed, what records, documents and other information needs to be submitted, where the information should be sent and a deadline for submittal of the information.

No prior notification is required when the department or county board conducts a special review.

The remaining procedures for the review process relate to on-site compliance reviews only.

B. Entrance Conference

Upon arrival at the review site, the reviewer should introduce him/herself and ask that any provider staff involved with the review be present. For an agency provider this may involve a number of employees. The reviewer should briefly review the purpose of the review, what the review will include, how the review will be conducted, the schedule of the review and the anticipated time an exit conference. The reviewer should request that an agency provider's administrator or an upper level manager is present for the exit conference. This is an informal process and a sign-in sheet is not required.

C. Review Process

Each waiver service has a specific review tool that includes the continuing provider qualification required by that service. The reviewer must complete each element of the tool and determine whether the required documentation and information needed to verify compliance with the continuing certification requirements is present. The service specific review tools are considered a part of this protocol. Throughout the review, the county board or department surveyors will inform the provider of missing documentation in order to allow the provider sufficient opportunity to produce the documentation prior to the completion of the review.

1. Service plans – When reviewing elements of the individual's service plan, the county board or department reviewer should focus his/her review on documentation related to the implementation of service plans for the current and prior three months. If that review indicates a significant number of deficiencies of provider standards, the reviewer should expand his/her review to include an additional three months.

2. Review of employee records – A review of employee records should focus on verification that the standards for initial certification were met and that the required standards for continuing training have been met for the prior three years, or as long as the rule has been effective, whichever is less.

D. Exit Conference

Following the completion of the review and prior to leaving the review site, the county board or department shall meet with representatives of the provider. The purpose of the exit conference is to:

1. Provide a general summary of the review, indicating areas of positive performance and areas where there may be potential deficiencies. This is not intended to be a finding-by-finding summary and no written reports are to be left with the provider.
2. Afford the provider a final opportunity to submit any information or documentation that would address any potential deficiencies and to inform the provider that no documentation following the exit conference will be accepted to avoid a finding of a deficiency.
3. Address any questions the provider may have and provide technical assistance.
4. Inform the provider whether there were any findings that could pose an immediate risk to the health and/or safety of any individuals served by the provider. If the review indicates such risk, the reviewer must ensure that the situation that has posed the immediate risk has been corrected before the reviewer leaves the site.
5. Outline the process and timelines for the issuance of the written report to the provider and the subsequent steps as required in rule 5123:2-9-08.

E. Review Report

A report of the review is due to the provider within twenty-one calendar days of the review. The format for producing the report is included as part of this protocol. The report should be objective in terms of its findings, relying upon documentation that clearly addresses the standard(s) being reviewed. The report should not reflect the opinion of the reviewer nor include language that is biased, exaggerated or embellishes circumstances in order to establish a finding.

F. Appeals of deficiencies

The process for appealing any deficiencies cited by the county board or the department is outlined in rule 5123:2-9-08 of the Administrative Code.

G. Changes in the Protocol

This protocol, including the narrative, accompanying forms and survey tools may need to be revised from time to time. The department will ensure that any revisions are made in collaboration with county boards and providers and that necessary training is provided. At least sixty days notice will be given to providers prior to the implementation of any changes to the protocol and provider compliance review process.