



Megan Byrnett

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 55**

126th General Assembly  
(As Introduced)

**Reps. Hoops, Combs, Gibbs, Hagan, Kearns, Reidelbach, Schaffer, Setzer,  
J. Stewart, Taylor, Webster, Allen, Barrett, Chandler, Miler, Perry**

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### **BILL SUMMARY**

- Requires the Director of the Ohio Department of Job and Family Services (ODJFS) to adopt additional rules regarding providers of ODJFS-administered home and community-based services programs.

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### **CONTENT AND OPERATION**

#### **Background**

(R.C. 5111.97)

Under Section 1915(c) of the Social Security Act,<sup>1</sup> the federal government waives certain Medicaid rules. This allows Ohio to operate special programs that help a specified number of eligible individuals with severe disabilities and medically unstable conditions to live in their homes and communities instead of nursing homes, hospitals, or facilities that provide intermediate care for persons with mental retardation or developmental disabilities (ICFs-MR). These programs are called "home and community-based services" (HCBS) waiver programs.

ODJFS administers HCBS programs under the Ohio Home Care Waiver and Transitions Waiver. The Ohio Home Care Waiver allows ODJFS to operate the Ohio Home Care Program. This Program serves three categories of Medicaid recipients: (1) individuals under age 60 whose medical condition or functional abilities would otherwise require them to live in a nursing home, (2) individuals of any age whose chronic, unstable medical condition would otherwise require long-term hospitalization or institutional placement, and (3) individuals of any age who

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<sup>1</sup> Section 1915(c) of the Social Security Act is codified as 42 United States Code 1396n(c).

have both a developmental disability and a physical or cognitive impairment that would otherwise require institutional placement.

H.B. 95 of the 125th General Assembly authorizes the Director of ODJFS to request a new waiver from the United States Secretary of Health and Human Services under which two Medicaid programs for home and community-based services may be created and implemented to replace the Ohio Home Care Program.<sup>2</sup>

**The bill**

(R.C. 5111.971)

The bill specifies that *in addition to* the current rules regarding ODJFS-administered home and community-based services programs,<sup>3</sup> ODJFS must adopt rules in accordance with the Ohio Administrative Procedure Act (R.C. Chapter 119.) and federal requirements establishing all of the following regarding the Ohio Home Care Program and the programs that will replace it:

(1) Standards and procedures for issuing, denying, renewing, and terminating provider agreements under the programs;

(2) Standards and procedures for collecting and maintaining statistical records regarding the provider agreements;

(3) Requirements that a provider must meet to attain and maintain eligibility to provide services under the programs, including specific conditions for participation that apply to all providers;

(4) A process for determining whether a provider meets the eligibility requirements to provide services under the programs;

(5) Health care service specifications that a provider or individual used by a provider must follow, based on the professional and educational qualifications of the provider or individual performing the service;

(6) Standards and procedures for evaluating the quality of services provided under the programs;

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<sup>2</sup> According to ODJFS, the Ohio Home Care waiver will continue at least through June 2006.

<sup>3</sup> Current rulemaking authority with respect to ODJFS-administered home and community-based services programs is in R.C. 5111.01, 5111.02, and 5111.85.

(7) A process by which the director may take disciplinary and enforcement measures against the providers;

(8) Other standards and procedures the director considers necessary and appropriate for the administration of the programs.

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## COMMENT

To be eligible to provide services under the Ohio Home Care Program, an individual or entity must have the following qualifications:

(1) Medicare-certified home health agencies--must be eligible to participate in the Medicaid program as "Medicare-certified home health agencies" after executing Medicaid provider agreements. They must provide services in accordance with the Medicare conditions of participation set forth in federal regulations.<sup>4</sup>

(2) Other accredited home health agencies--must maintain accreditation by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the Community Health Accreditation Program (CHAP) for the provision of home health care services and personal care and support services.

(3) Waiver independent daily living aides--must meet one or more of the minimum requirements established in rules adopted by ODJFS and:<sup>5</sup>

- May not provide services to a family member<sup>6</sup> or to foster children.
- Must successfully complete a criminal records check conducted by the superintendent of Ohio's Bureau of Criminal Identification and Investigation (BCII) that is equivalent to those conducted by BCII under Ohio law for individuals under final consideration for employment with a home health agency.<sup>7</sup>

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<sup>4</sup> 42 Code of Federal Regulations 484.

<sup>5</sup> O.A.C. 5101:3-12-05(E)(1)(a) to (E)(1)(c) and (G).

<sup>6</sup> A family member is a consumer's or provider's immediate relative or family member, including husband or wife; natural or adoptive parent, child, or sibling; stepparent, stepchild, stepbrother, stepsister, half brother, or half sister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild (O.A.C. 5101:3-12-01(O)).

<sup>7</sup> R.C. 3701.881.

- Must successfully complete the nurse aide competency evaluation program conducted by the Ohio Department of Health.
- Must attend all required ODJFS-sponsored provider training sessions.

(4) Waiver independent daily living non-aides--must meet the minimum requirements established in rules adopted by ODJFS and:<sup>8</sup>

- May not provide services to family members.
- Must successfully complete a BCII criminal records check.
- Must be at least 18 years old.
- Must provide ODJFS or its designee with the name of the consumer who has chosen the individual to provide services.
- Must attend all required ODJFS-sponsored provider training sessions.

(5) Independent home care nurses--must meet the minimum requirements established in rules adopted by ODJFS and:<sup>9</sup>

- Must be registered nurses or licensed practical nurses working under the supervision of a registered nurse practicing within the nurse's scope of license.
- Must successfully complete a BCII criminal records check.
- Must attend all required ODJFS-sponsored provider training sessions.
- Must comply with conditions of participation found in federal regulations.<sup>10</sup>
- May not provide services to a family member.

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<sup>8</sup> *O.A.C. 5101:3-12-05(F)(2).*

<sup>9</sup> *O.A.C. 5101:3-12-05(H)(2).*

<sup>10</sup> *42 C.F.R. 484.*

(6) ODJFS-administered HCBS waiver providers--must meet the requirements established in rules adopted by ODJFS.<sup>11</sup>

(7) Durable medical equipment (DME) providers--are eligible to provide supplemental adaptive and assistive devices and emergency response systems covered under the ODJFS-administered waiver benefit package if they certify that they meet the criteria established by ODFJS in rules.<sup>12</sup>

(8) Ambulance or ambulette providers--are eligible to provide supplemental transportation services covered under the ODJFS-administered waiver benefit package if they certify that they meet the requirements established by ODJFS in rules.<sup>13</sup>

(9) Advanced practice nurse providers--are eligible to provide nursing services if they meet the requirements established by ODJFS in rules.<sup>14</sup>

(10) Public health clinics--are eligible to provide home delivered meal services covered under the ODJFS-administered waiver benefit package if they have an appropriate food vendor license and certify that they meet the requirements established by ODJFS in rules.<sup>15</sup>

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-10-05	pp. 201-202

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<sup>11</sup> O.A.C. 5101:3-12-05(I)(2) and (3).

<sup>12</sup> O.A.C. 5101:3-12-07(E) and (G).

<sup>13</sup> O.A.C. 5101:3-12-07(D).

<sup>14</sup> O.A.C. 5101:3-12-06(H)(2).

<sup>15</sup> O.A.C. 5101:3-12-07(B).