



## Department of Developmental Disabilities

Mike DeWine, Governor  
Jeff Davis, Director

### Technology First Rule Pre-Clearance Period: October 8-22, 2021

Comment	By Whom	Department's Response
I think it is excellent and is definitely a step in the right direction. I think possibly one of the most important pieces is the very last section, the department's role. I feel that here in Wood County we are very lucky with the resources we have on staff to assist with Assistive Technology (AT) assessment, trials, loans, etc. I do not think all other county boards have these resources so readily available. And as we see in the numbers, there are not a lot of AT waiver providers who are doing the evaluation piece. From what I have heard from providers/vendors, the reasoning is the reimbursement rate does not align with the requirements in order to become certified. I think there will need to be significant resources allocated to county boards to give them the resources to do this person-centered planning, to know what's available, and to feel comfortable having these conversations with individuals. I will absolutely be continuing and advocating for our resources here in Wood County and will share those resources with other counties as well. Trainings are great but I also think staff are inundated with training and not all of it sticks. I think having county board staff with certification in AT in some shape or form is a great starting point.	Carly Dauch, Health Supports Coordinator, Wood County Board of Developmental Disabilities	We appreciate your enthusiasm and feedback and applaud the success you have had with Assistive Technology in Wood County. The rule addresses technology broadly and is not limited to specific Home and Community-Based Services such as Assistive Technology or Remote Support. We will make that clear through communication, guidance, training, and technical assistance.
<p>As a general note, the actual statute that declares this policy requires individuals with developmental disabilities to have access to innovative technology solutions; nothing requires individuals with developmental disabilities to participate in or receive technology.</p> <p>Can an administrative rule place requirements on an individual or on the entity that serves the individual? I think the structure of paragraph (C)(4)(a)(i) is odd as government rules generally are designed to apply to how government agencies operate, not to how individuals act. The Ohio Revised Code establishing Technology First only states that individuals shall have access to—not be required to take or consider—technology.</p>	Paul Jarvis, Policy Analyst, Ohio Developmental Disabilities Council	We agree. The rule does not require anyone to use technology. The rule implements the statute by ensuring that technology is explored as part of the person-centered planning process, thereby creating access.

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<p>Technology needs to be specifically addressed in Ohio Individual Service Plan (Ohio ISP); otherwise, Service and Support Administrators will put it in various domains. (October 19 call)</p> <p>Section (C)(4) of the proposed rule describes a process in which county boards of developmental disabilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFIDDs) must follow to assess and identify appropriate technology supports for the person served. At the time of this writing, no current assessment exists in the Ohio ISP tool. Because technology assessments are a new addition to the planning process, one cannot assume that interdisciplinary teams have the resources nor the expertise to fully execute this rule. We believe that it is imperative that assessment tools and best practices be identified and implemented in concert with this rule.</p>	<p>Lori Stanfa, Chief Policy Officer, Ohio Association of County Boards Serving People with Developmental Disabilities</p> <p>Janet Stephan, Chief Operating Officer, RMS Management, Inc.; representing Ohio Waiver Network</p>	<p>Based on your feedback, Ohio ISP is being modified to support implementation of Technology First.</p> <ul style="list-style-type: none"> <li>Each of the seven assessment domains will include areas to identify technology and describe how it will be used.</li> <li>Ohio ISP will include a place to note that a referral for technology consultation is being made.</li> <li>Technology exploration prompts will be added.</li> <li>A statement will be included in the signature section where the individual/guardian can affirm that technology has been explored.</li> </ul> <p>Based on the assessment, use of technology will be interwoven throughout the plan where applicable.</p> <p>The Department will develop training and resource tools and make them available to Service and Support Administrators and Qualified Intellectual Disability Professionals.</p>
<p>The inclusion of ICFIDD facilities/providers in the requirements to seek, prioritize, and implement technology may come into conflict with the Conditions of Participation in the ICFIDD program, as prescribed by the Centers for Medicare and Medicaid Services (CMS). For example, 483.430(c)(2) of the <i>State Operations Manual</i> requires that staff must be awake and present in the facility, therefore prohibiting ICFIDDs from implementing remote support technology, for example. The proposed language infers that county boards of developmental disabilities and ICFIDDs have similar capabilities and responsibilities to explore and implement technology. Operational protocols for Home and Community-Based Services and ICFIDD services are separate and distinct, and should be reflected as such in the rule.</p> <p>Paragraph (C)(1)(a)(i)(a) is a concern in ICFIDDs as CMS does not allow technology to replace staff in some cases, so while a person may be able to have remote supports at night while sleeping, which is less intrusive than having staff, CMS would not allow this.</p>	<p>Janet Stephan, Chief Operating Officer, RMS Management, Inc.; representing Ohio Waiver Network</p> <p>Debbie Jenkins, Policy Director, Ohio Health Care Association</p>	<p>We recognize the distinction between Home and Community-Based Services and services provided by ICFIDDs as well as the roles of county boards of developmental disabilities and ICFIDDs. As the administrator of Ohio's ICFIID program and an entity charged with ensuring compliance with federal ICFIID regulations, the Department would not propose a rule that is at odds with Conditions of Participation. The Technology First policy described in Section 5123.025 of the Revised Code was intended to create a culture shift throughout Ohio's developmental disabilities service delivery system and is not limited to community settings.</p> <p>Technology First should not be assumed to mean only remote supports. While Medicaid regulations do not support the use of technology to replace staff needed to meet assessed active treatment needs, they do not limit the ability of an individual to use assistive technology to increase independence.</p>
<p><b>(B)(8):</b> This draft looks good, but I do have a question regarding the definition for "technology solution." Is it possible that this definition, as written, can be confused for adaptive and assistive equipment? I believe an adaptive spoon can increase functional capabilities, but I don't think of it as a technology solution because it doesn't require an energy source such as a battery. Added during October 19 call: Without clarification, Service and Support Administrators will be confused about authorizing services.</p>	<p>Jarrold Hunt, Chief Visionary Officer, Wynn-Reeth</p>	<p>The rule is broad and does not address specific Medicaid Home and Community-Based Services. Accordingly, the definition of "technology solution" is intentionally broad, so as not to limit possibilities. The definition includes a "service," which may not require an energy source. We will work with the Ohio Association of County Boards and ICFIID providers to develop training and provide technical assistance to support the important role of Service and Support Administrators and Qualified Intellectual Disability Professionals.</p>
<p><b>(B)(8):</b> How will the efficacy of a technology solution be determined? How subjective is this?</p>	<p>Paul Jarvis, Policy Analyst, Ohio Developmental Disabilities Council</p>	<p>The individual and the individual's team will determine if the technology solution is meeting the individual's needs through the person-centered planning process and may collaborate with technology subject matter experts if necessary.</p>

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<b>(C)(1)(a):</b> While I know technology is a priority, many of our ICFIIDs don't have staff to complete this requirement within 60 days. Most of them have their administrative/program staff working direct care.	Debbie Jenkins, Policy Director, Ohio Health Care Association	We recognize the heroic efforts of ICFIIDs to provide services during these challenging times. Implementing the Technology First policy is intended to bolster outcomes for those served over time. In response to your comment, paragraph (C)(1)(a) was revised to permit 90 days for development of the policy. It will take more than 90 days to get the rule in place after it is disseminated for clearance; therefore, ICFIIDs and county boards will have at least six months to prepare a written policy. Department staff are available to provide technical assistance if needed.
<p><b>(C)(1)(a)(i)(a):</b> What does "explored" mean and when does it take place (i.e., at authorization and/or reauthorization)? To what extent will Service and Support Administrators (SSAs) be required to use the Rapid Response System? (October 19 call)</p> <p>"Explored" means the team must discuss what technology the individual uses and what additional technology might be helpful. The rule needs teeth by requiring the exploration to be documented. We will have to do training regarding Rapid Response System and the rule. I would like the Rapid Response System and On-Site/On-Call assessment to go live at the same time. We need to explain these tools. I want to coordinate timing with DODD. (October 19 call)</p>	<p>Don Shirley, President, SafeInHome</p> <p>Lori Stanfa, Chief Policy Officer, Ohio Association of County Boards Serving People with Developmental Disabilities</p>	<p>"Explored" means actively looking for technology solutions and connecting with technology vendors and/or other technology subject matter experts. Exploration should take place in the context of the person-centered planning process. The Rapid Response System is a tool available to SSAs; the rule does not require SSAs to use the tool.</p> <p>In response to the suggestion that the rule needs teeth, a new paragraph (C)(1)(a)(ii) was added:</p> <p>Require that exploration of technology solutions by an individual and the individual's team be documented in the individual service plan.</p> <p>We will provide an explanation of the components of the rule and how language was used by intent (i.e., this is what the rule means and why) and work with the Ohio Association of County Boards to coordinate timing and training.</p>
<p><b>(C)(1)(a)(i):</b> Might there need to be a third option that expresses the desires of the individual being served? For example, if an individual does not want cameras in the home due to privacy concerns, concerns should not be overridden by a policy that does not include the "wants" of individuals.</p> <p><b>(C)(4)(a)(iv)(b):</b> Again, the structure here places the onus on individuals and their "team." Perhaps this includes the Service and Support Administrator? "Individual's team" is not included as a definition to this rule. Who is preparing this documentation that determines the individual's experience AND changes in dependency on staff?</p>	Paul Jarvis, Policy Analyst, Ohio Developmental Disabilities Council	<p>Paragraph (C)(4) incorporates the planning rules by reference:</p> <ul style="list-style-type: none"> <li>• 5123-3-03 (Licensed Residential Facilities - Person-Centered Planning)</li> <li>• 5123-4-02 (Service and Support Administration)</li> </ul> <p>The rules define "team" and set forth the process to be followed, which is based on an individual's assessed needs and what is important to the individual and important for the individual.</p>
<p><b>(C)(1)(a)(iii):</b> While this may be a good thought for county boards, a four-bed ICFIID may not have the ability to increase the number of individuals who benefit from the use of technology. Revise as indicated:</p> <p><u>Assess ability to increase capacity for use of technology solutions and based on assessment, Outline specific steps, as applicable, to be taken to increase capacity to use technology solutions to serve individuals, including, when applicable, establishment of benchmarks for increasing the number of individuals who benefit from the use of technology solutions.</u></p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	<p>The paragraph was revised as indicated:</p> <p><u>Address ability to increase capacity for use of technology solutions and outline specific steps, as applicable, to be taken to increase capacity to use technology solutions to serve individuals, including, when applicable, establishment of benchmarks for increasing the number of individuals who benefit from the use of technology solutions.</u></p>

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<p><b>(C)(1)(b):</b> Again, a small four-bed ICFIID may not have need to update the technology policy to the extent a county board may. Also, I just want to point out that this is another regulatory requirement for ICFIIDs that is not funded. In a time of staffing crisis, it's challenging to agree to add administrative requirements without staffing for funding resources.</p> <p>Revise as indicated:</p> <p>Annually <u>review and update, as applicable,</u> the written <del>local</del> policy developed and implemented in accordance with paragraph (C)(1)(a) of this rule, by February fifteenth of each year for the preceding calendar year.</p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	The paragraph was revised in accordance with your suggestion.
<p><b>(C)(2):</b> Revise as indicated:</p> <p>Each county board will actively collaborate with <del>other county boards, local schools including schools operated by county boards, area agencies on aging, county departments of job and family services, mental health agencies, public transit authorities, and local vocational rehabilitation centers,</del> <u>people served and their families,</u> providers of services, employers, and other community partners to expand awareness and use of technology solutions by individuals served by the county board. <u>Community partners may include local schools, mental health agencies, area offices on aging, etc. as applicable.</u></p>	Lori Stanfa, Chief Policy Officer, Ohio Association of County Boards Serving People with Developmental Disabilities	<p>The paragraph was revised as indicated:</p> <p>Each county board will actively collaborate with <del>other county boards, local schools including schools operated by county boards, area agencies on aging, county departments of job and family services, mental health agencies, public transit authorities, and local vocational rehabilitation centers,</del> <u>individuals served and their families,</u> providers of services, <del>employers, the department, and other</del> community partners (e.g., local schools, mental health agencies, area agencies on aging, <u>county departments of job and family services, public transit authorities, local vocational rehabilitation centers, and employers</u>) to expand awareness and use of technology solutions by individuals served by the county board.</p>
<p><b>(C)(3):</b> Revise as indicated:</p> <p>Each intermediate care facility for individuals with intellectual disabilities will <del>actively seek opportunities to</del> collaborate with other <u>organizations, as applicable, including the department,</u> intermediate care facilities for individuals with intellectual disabilities, county boards, local schools including schools operated by county boards (when serving school-age residents), mental health agencies, local vocational rehabilitation centers, persons or entities under contract to provide services to residents, employers, and other community partners to expand awareness and use of technology solutions by residents.</p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	<p>The paragraph was revised as indicated:</p> <p>Each intermediate care facility for individuals with intellectual disabilities will actively collaborate with <del>other intermediate care facilities for individuals with intellectual disabilities, county boards, local schools including schools operated by county boards (when serving school-age residents), mental health agencies, local vocational rehabilitation centers,</del> <u>residents served and their families,</u> persons or entities under contract to provide services to residents, <del>employers, the department, and other</del> community partners (e.g., <u>county boards, local schools, mental health agencies, local vocational rehabilitation centers, and employers</u>) to expand awareness and use of technology solutions by residents.</p>
<p><b>(C)(4):</b> "desired outcomes as they relate to technology solutions"</p> <p>I think there is going to be a lot of confusion about the word choice of "outcome." Is this suggesting that everyone would be required to have a technology-based outcome, or does this simply mean that it needs mentioned somewhere in the plan?</p>	Jeannette Coleridge, Chief Operations Officer/Trainer, X-Excel	Outcomes are a foundational element of person-centered planning. Technology solutions are no different than any other service or support in the individual service plan; if a technology solution is included in the individual service plan, the plan must include an associated outcome.

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<b>(C)(4)(a):</b> The individual and the team need to discuss what technology solutions the individual already uses. There needs to be an emphasis on the individual's communication skills and goals. (October 19 call)	Ali Rahimi, CEO, Ohio At Home Healthcare Agency	In response to your suggestion, new paragraph (C)(4)(a)(i) was added: The individual and the individual's team will discuss any technology solution previously or currently used by the individual and the effectiveness of the technology solution;  Communication is addressed in paragraph (C)(4)(a)(ii)(b).
<b>(C)(4)(a)(ii):</b> Revise as indicated:  The individual and the individual's team will <del>review</del> <u>discuss and explore</u> information regarding available technology solutions and consider how each technology solution might:	Lori Stanfa, Chief Policy Officer, Ohio Association of County Boards Serving People with Developmental Disabilities	The paragraph was revised in accordance with your suggestion.
<b>(C)(4)(a)(ii):</b> "the individual and individual's team will review information regarding available technology solutions."  Who will be providing this? Are we going to expect Service and Support Administrators to know all of the available technology out there? I think this is where the huge breakdown occurs when it comes to technology. We cannot expect Service and Support Administrators to add technology expert to their resumes. It just won't be successful.	Jeannette Coleridge, Chief Operations Officer/Trainer, X-Excel	The Department will provide guidance, training, technical assistance, and resources. We recognize that needs will vary by locality.
<b>(C)(4)(a)(ii):</b> For the sake of uniformity from county to county, this rule should include the necessity to have an On-Site/On-Call assessment. Before authorizing On-Site/On-Call, an assessment would determine if technology could fill the assessed need.	Jeannette Coleridge, Chief Operations Officer/Trainer, X-Excel	This rule is about technology broadly, not about specific Home and Community-Based Services. The requirement for an assessment for On-Site/On-Call Homemaker/Personal Care is addressed in paragraph (F)(11) of the Homemaker/Personal Care rule (5123-9-30).
<b>(C)(4)(a)(iii):</b> Revise as indicated:  After discussing <del>available</del> <u>whether or not</u> technology solutions <u>may be appropriate</u> , the individual and the individual's team: (a) Will <del>assess</del> <u>discuss</u> how available technology solutions may advance what is important to or important for the individual; (b) Will <del>determine which available technology solutions best meet the individual's assessed needs</del> <u>make referrals for assessments from technology vendors/providers to identify solutions</u> ; and (c) May identify additional evaluations needed to determine whether other available technology solutions meet the individual's assessed needs.	Lori Stanfa, Chief Policy Officer, Ohio Association of County Boards Serving People with Developmental Disabilities	The paragraph was revised in accordance with your suggestion.

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<p><b>(C)(4)(a)(iv):</b> What does "available" mean here? Does it mean that it is something that is for sale or that it is physically there for the person to utilize? This is a place where I could see some differences of opinion during survey. Compliance reviewers could take this as anything that is for sale is available, but from an ICFIID perspective there could be reasons why they can't obtain it for the resident, such as lack of funding, lack of products available in their area, or timing of purchase/replacement.</p> <p>There needs to be some discretion for the team to determine if they will utilize the technology or not. For example, remote supports may be determined to meet an individual's assessed needs, but if they live with roommates who need Homemaker/Personal Care, remote supports would not be included in their plan. Several folks from DODD stated that they don't want this rule to "force" people into technology use, but the use of "will" in this section of the rule would do just that. Revise as indicated:</p> <p>Available technology solutions that have been determined to meet the individual's assessed needs <del>will</del> <u>may</u> be included in the individual service plan.</p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	<p>"Available" means can be accessed to meet the individual's needs.</p> <p>We agree. The team process inherently allows for discretion. Therefore, when the individual and the team agree that a technology solution is available and determined to meet the individual's assessed needs, it should be reflected in the individual service plan.</p>
<p><b>(C)(4)(a)(iv):</b> Revise as indicated:</p> <p><del>Available</del> When available technology solutions <del>that</del> have been determined to meet the individual's assessed needs, <u>they</u> will be included in the individual service plan.</p>	Lori Stanfa, Chief Policy Officer, Ohio Association of County Boards Serving People with Developmental Disabilities	The paragraph was revised in accordance with your suggestion.
<p><b>(C)(4)(a)(iv)(a):</b> "Technology solutions included on a trial basis are to be reviewed..." Should we add into this rule that lending libraries should be considered before purchasing? It might help people feel comfortable and I don't think many people know about them and may also be fiscally responsible before purchasing tech that someone may not use.</p>	Jeannette Coleridge, Chief Operations Officer/Trainer, X-Excel	Good point. We will address lending libraries and other resources through training and guidance.
<p><b>(C)(4)(b):</b> The results of the person-centered planning process may determine that there are no technology solutions that are needed to be included in the individual service plan. This is another area where the "level of responsibility for ICFIID providers" needs to be considered as this rule will be adding a lot of actions/requirements that don't currently exist at a time when providers are struggling to meet current requirements and when the state is limiting the reimbursement formula to not even cover current costs let alone any increased costs related to technology.</p> <p>Revise as indicated:</p> <p>The results of the person-centered planning process, including, <u>as applicable</u>, the individual's desired outcomes as they relate to technology solutions and the activities that will occur to expand the individual's exploration, awareness, and use of technology solutions, <del>shall</del> <u>will</u> be integrated into the individual service plan. The individual service plan will:</p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	The paragraph was revised in accordance with your suggestion.

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<p><b>(C)(4)(b)(i):</b> Where would this be included in the new Ohio ISP? While there are places to enter where technology will meet needs, I'm not sure where a provider would include that it meets necessary privacy requirements. I think it should be amended as suggested:</p> <p><del>Indicate that the provider has demonstrated that the technology solutions meet the necessary</del> <u>Address any identified privacy requirements related to the use of technology; and</u></p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	The paragraph was eliminated.
<p><b>(C)(5):</b> I think the department can be helpful in identifying and sharing information (with both county boards and ICFIIDs) on available technology and how it can be used to help people served in our system.</p> <p>Revise as indicated:</p> <p>The department will consult and collaborate with individuals and families who receive services, county boards, providers of home and community-based services, intermediate care facilities for individuals with intellectual disabilities, vendors of technology solutions, and other state agencies to:</p> <p><u>(a) identify best practices,</u></p> <p><u>(b) Share information on available technologies and ways the technology can provide individuals with more independence,</u></p> <p><u>(c) Identify funding sources or other means for procuring identified technology,</u></p> <p><u>(d) facilitate effective partnerships, and</u></p> <p><u>(e) identify ways the department can support statewide efforts to expand use of technology solutions.</u></p>	Debbie Jenkins, Policy Director, Ohio Health Care Association	We agree. The paragraph was revised in accordance with your suggestion.