

*****Proposed Revisions to Existing Rule - June 2, 2016*****

5123:2-9-21 Home and community-based services waivers - informal respite under the level one waiver.

(A) Purpose

This rule defines informal respite and sets 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~~ employs at least one person in addition to the chief executive officer for the purpose of providing services for which the entity must be certified ~~under rules adopted by the department in~~ accordance with rule 5123:2-2-01 of the Administrative Code.
- (2) "Community respite" has the same meaning as in rule 5123:2-9-22 of the Administrative Code.
- (3) "County board" means a county board of developmental disabilities.
- (4) "Department" means the Ohio department of developmental disabilities.
- (5) "Homemaker/personal care" has the same meaning as in rule 5123:2-9-30 of the Administrative Code.
- (6) "Independent provider" means a self-employed person who provides services for which he or she must be certified ~~under~~ in accordance with rule 5123:2-2-01 of the Administrative Code 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.
- (8) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (9) "Informal respite" means services provided to an individual unable to care for himself or herself, furnished by a person known to the individual, on a short-term basis because of the absence or need for relief of those persons routinely providing the care. Informal respite may be provided in the individual's home or place of residence, home of a friend or family member, or at sites of community activities.
- (10) "Major unusual incident" has the same meaning as in rule 5123:2-17-02 of the Administrative Code.
- (11) "Money management" has the same meaning as in rule 5123:2-9-20 of the Administrative Code.

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~~(11)~~ (12) "Residential respite" has the same meaning as in rule 5123:2-9-34 of the Administrative Code.

~~(12)~~ (13) "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.

~~(13)~~ (14) "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.

~~(14)~~ (15) "Transportation" has the same meaning as in rule 5123:2-9-24 of the Administrative Code.

~~(15)~~ (16) "Unusual incident" has the same meaning as in rule 5123:2-17-02 of the Administrative Code.

~~(16)~~ (17) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date.

(C) Provider qualifications

(1) Informal respite shall be provided by an independent provider known to the individual who:

(a) Meets the requirements of this rule;

(b) Has a medicaid provider agreement with the Ohio department of medicaid; and

(c) Has completed and submitted an application through the department's website (<http://dodd.ohio.gov/providers/becomeaprovider/pages/default.aspx>).

(2) Informal respite shall not be provided by an agency provider, a county board, or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.

(3) Failure to comply with this rule and rule 5123:2-2-01 of the Administrative Code may result in denial, suspension, or revocation of the provider's certification.

(D) Requirements for service delivery

(1) Informal respite shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code.

(2) In order to be eligible for informal respite, the individual or his or her designee must be able and willing to accept responsibility for training the provider and monitoring

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health management activities, behavioral support, major unusual incident reporting, and other activities required to meet the needs of the individual as identified in the individual service plan. The individual or his or her designee shall document the following on forms and according to procedures prescribed by the department:

- (a) Orientation and training of the provider, prior to the delivery of services, about activities required to meet the needs and preferences of the individual, including any training specified for the individual in his or her individual service plan and other information related to health and welfare needs of the individual.
- (b) Annual training of the provider to ensure that the provider understands the following:
 - (i) The requirements set forth in rule 5123:2-17-02 of the Administrative Code and the reasonable steps necessary to prevent the occurrence or recurrence of unusual incidents and major unusual incidents;
 - (ii) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and
 - (iii) The activities required to meet the needs and preferences of the individual, including any training specified for the individual in his or her individual service plan and other information related to health and welfare needs of the individual.
- (3) The individual or his or her designee shall:
 - (a) Ensure the provider is delivering informal respite as specified in the individual service plan.
 - (b) Ensure the provider is documenting the delivery of informal respite in accordance with paragraph (E) of this rule.
 - (c) Upon knowledge of an unusual incident or a major unusual incident, take immediate actions as necessary to maintain the health, safety, and welfare of the individual receiving informal respite.
- (4) Failure of the individual or his or her designee to fulfill the requirements of this rule shall render the individual ineligible for informal respite under the waiver and, subsequent to prior notice and hearing rights in accordance with section 5160.31 of the Revised Code and ~~Chapters 5101:6-1 to 5101:6-9 of the Administrative Code~~ rules implementing that statute, informal respite shall be terminated.

(E) Documentation of services

Service documentation for informal respite shall include each of the following to validate payment for medicaid services:

- (1) Type of service.

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- (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) Begin and end time of the delivered service.
 - (9) Written or electronic signature of the person delivering the service.
 - (10) 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 informal respite are contained in the appendix to this rule.
 - (2) Under the level one waiver, payment for community respite, homemaker/personal care, informal respite, money management, residential respite, and transportation, alone or in combination, shall not exceed five thousand three hundred twenty-five dollars per waiver eligibility span.

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APPENDIX

BILLING UNIT, SERVICE CODE, AND PAYMENT RATE
FOR INFORMAL RESPITE

Billing Unit: Fifteen minutes

Service Code: FIN

Payment Rate: \$2.75