

5123:2-9-55

Home and community-based services waivers - out-of-home respite under the transitions developmental disabilities waiver.

(A) Purpose

The purpose of this rule is to define out-of-home respite under the transitions developmental disabilities waiver and set 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 for the purpose of providing services for which the entity must be approved by the Ohio office of medical assistance department of medicaid.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Individual" means a person with a developmental disability or for the 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.
- (5) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- ~~(6) "Intermediate care facility for individuals with intellectual disabilities" (or "intermediate care facility") means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1396.~~
- (6) "Intermediate care facility" means an intermediate care facility for individuals with intellectual disabilities as defined in rule 5123:2-7-01 of the Administrative Code.
- (7) "Out-of-home respite" means services delivered to an individual in an out-of-home setting in order to allow respite for caregivers normally providing care. The service must include an overnight stay. A provider of out-of-home respite shall make the following services, which shall not be reimbursed as separate services, available:

- (a) Three meals per day that meet the individual's dietary requirements;
 - (b) Personal care aid services; and
 - (c) Waiver nursing services.
- (8) "Personal care aide services" has the same meaning as in rule 5123:2-9-56 of the Administrative Code.
- (9) "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)(2) of this rule to validate payment for medicaid services.
- (10) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date.
- ~~(10)~~(11) "Waiver nursing services" has the same meaning as in rule 5123:2-9-59 of the Administrative Code.

(C) Provider qualifications

- (1) Out-of-home respite shall be provided by one of the following agency providers that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio ~~office of medical assistance~~ department of medicaid:
- (a) An intermediate care facility;
 - (b) A nursing facility licensed and certified in accordance with rules ~~5101:3-3-02 and 5101:3-3-02.3~~ 5160-3-02 and 5160-3-02.3 of the Administrative Code; or
 - (c) Another licensed setting approved by the Ohio ~~office of medical assistance~~ department of medicaid.
- ~~(2) No later than thirty days after the effective date of this rule, and at least annually thereafter, each employee of a provider of out of home respite who is engaged in the direct provision of out of home respite shall complete~~

~~training, in accordance with standards established by the department, in:~~

- ~~(a) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and~~
- ~~(b) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department.~~

~~(3)~~(2) A provider of out-of-home respite shall ensure that each employee ~~hired on or after the effective date of this rule~~ who is engaged in the direct provision of out-of-home respite completes training, in accordance with standards established by the department, prior to initially providing out-of-home respite and at least annually thereafter, in:

- (a) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and
- (b) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department.

~~(4)~~(3) A provider of out-of-home respite shall ensure that each non-licensed employee engaged in the direct provision of out-of-home respite annually completes at least eight hours of in-service training, excluding agency provider/program-specific orientation or training. Training completed pursuant to paragraph (C)(2) ~~or (C)(3)~~ of this rule may be counted toward the eight hours.

(D) Requirements for service delivery

(1) Out-of-home respite shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (F) of rule 5123:2-9-50 of the Administrative Code.

(2) Out-of-home respite is limited to ninety calendar days of service per waiver eligibility span.

~~(2)~~(3) Providers of out-of-home respite shall:

- (a) Be identified as the provider and have specified in the individual service plan the number of days for which the provider is authorized to furnish out-of-home respite to the individual;

- (b) Comply with applicable rules in ~~Chapters 5101:3-45 and~~ Chapter 5123:2-9 of the Administrative Code;
- (c) Provide for replacement coverage of an individual's loss due to theft and/or property damage, upon request provide documentation to the department or the Ohio ~~office of medical assistance~~ department of medicaid or their designees verifying coverage, and maintain a written procedure identifying the steps an individual must take to file a liability claim;
- (d) Ensure that any waiver nursing services are provided by a nurse who possesses a current, valid, and unrestricted license issued by the Ohio board of nursing as a registered nurse or a licensed practical nurse and who is providing nursing services within his or her scope of practice. A licensed practical nurse may provide waiver nursing services at the direction of a registered nurse;
- (e) Provide task-based instruction to direct care staff providing out-of-home respite as defined in paragraph (B)(7) of this rule; and
- (f) Provide out-of-home respite to no more than three individuals in a group setting on the same date.

(E) Documentation of services

- (1) Providers of out-of-home respite shall maintain service documentation for each individual served in a manner that protects the confidentiality of the individual's records.
- (2) Service documentation for out-of-home respite shall include each of the following to validate payment for medicaid services:
 - (a) Individual-identifying information including, but not limited to, name, address, age, date of birth, sex, race, marital status, significant phone numbers, and health insurance identification numbers;
 - (b) Individual's medical history;
 - (c) Name of individual's treating physician;

- (d) A copy of all individual service plans in effect when the provider provides services;
- (e) A copy of any advance directives including, but not limited to, a "do not resuscitate" order or medical power of attorney, if they exist;
- (f) Documentation of drug and food interactions, allergies, and dietary restrictions;
- (g) Documentation that clearly shows the date of out-of-home respite service delivery including tasks performed or not performed;
- (h) A discharge summary, signed and dated by the departing out-of-home respite provider, that includes information regarding progress made toward goal achievement and indicates any recommended follow-ups or referrals, at the point the provider is no longer going to provide services to the individual or when the individual no longer needs out-of-home respite; and
- (i) The information specified in paragraph (E)(2) of rule 5123:2-9-59 of the Administrative Code when the individual receives waiver nursing services.

(F) Payment standards

- (1) The billing ~~units~~ unit, service ~~codes~~ code, and payment ~~rates~~ rate for out-of-home respite are contained in the appendix to this rule.
- (2) Providers shall submit claims for payment for out-of-home respite to the Ohio ~~office of medical assistance~~ department of medicaid in accordance with rule ~~5101:3-41-22~~ 5160-41-22 of the Administrative Code.

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