

5123:2-9-59

Home and community-based services waivers - waiver nursing services under the transitions developmental disabilities waiver.

(A) Purpose

The purpose of this rule is to define waiver nursing services 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 department of medicaid.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Independent provider" means a non-agency, self-employed person approved by the Ohio department of medicaid to provide services who does not employ, either directly or through contract, anyone else to provide the services.
- (5) "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.
- (6) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (7) "Licensed practical nurse" has the same meaning as in section 4723.01 of the Revised Code.
- (8) "Personal care aide services" has the same meaning as in rule 5123:2-9-56 of the Administrative Code.
- (9) "Plan of care" means the medical treatment plan that is established, approved, and signed by the treating physician. The plan of care must be signed and dated by the treating physician prior to requesting payment for a service. The plan of care is not the same as the individual service plan.

- (10) "Registered nurse" has the same meaning as in section 4723.01 of the Revised Code.
- (11) "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.
- (12) "Significant change" means a change experienced by an individual that includes, but is not limited to, a change in health status, caregiver status, or location/residence; referral to or active involvement on the part of a protective services agency; or institutionalization.
- (13) "Waiver nursing services" means services provided to an individual who requires the skills of a registered nurse or licensed practical nurse working at the direction of a registered nurse. Waiver nursing services may include personal care aide services when provided incidental to waiver nursing services performed during the authorized waiver nursing services visit. Waiver nursing services shall not include:
- (a) Services delegated in accordance with Chapter 4723. of the Revised Code and rules adopted thereunder, and to be performed by persons who are not licensed nurses in accordance with Chapter 4723. of the Revised Code;
 - (b) Services that require the skills of a psychiatric nurse;
 - (c) Visits performed for the purpose of conducting a registered nurse assessment as set forth in rule 5160-12-08 of the Administrative Code, including but not limited to, an outcome and assessment information set or any other assessment;
 - (d) Registered nurse consultations as set forth in rule 5160-12-08 of the Administrative Code, including but not limited to, those performed by registered nurses for the sole purpose of directing licensed practical nurses in the performance of waiver nursing services or directing personal care aides or home health aides employed by a medicare-certified home health agency or otherwise accredited agency;
 - (e) Visits performed for the sole purpose of meeting the supervisory

requirements (including any visit) pursuant to paragraph (D)(5) of rule 5123:2-9-56 of the Administrative Code;

(f) Visits performed for the sole purpose of meeting the home care attendant service registered nurse visit requirements set forth in rules 173-39-02.24, and 5160-46-04.1, ~~and 5160-50-04.1~~ of the Administrative Code; or

(g) Services performed in excess of the number of hours approved pursuant to, and as specified in, the individual service plan.

(C) Provider qualifications

(1) Waiver nursing services shall be provided by an independent provider or an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.

(2) Waiver nursing services shall be provided by a registered nurse or by a licensed practical nurse working at the direction of a registered nurse who:

(a) Possesses a current, valid, and unrestricted license issued by the Ohio board of nursing; and

(b) Is working within his or her scope of practice as set forth in Chapter 4723. of the Revised Code and administrative rules adopted thereunder.

(3) Waiver nursing services shall not be provided by a county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.

(4) Each registered nurse and each licensed practical nurse working at the direction of a registered nurse shall receive training, in accordance with standards established by the department, prior to initially providing waiver nursing services 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.

(D) Requirements for service delivery

- (1) Waiver nursing services 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) A provider of waiver nursing services shall be identified as the provider and have specified in the individual service plan the number of hours for which the provider is authorized to furnish waiver nursing services.
- (3) A registered nurse or licensed practical nurse working at the direction of a registered nurse may provide services for no more than three individuals in a group setting during a face-to-face nursing visit.
- (4) An independent provider of waiver nursing services who is a licensed practical nurse working at the direction of a registered nurse shall:
 - (a) Conduct a face-to-face visit with the individual and the directing registered nurse prior to initiating services and at least once every one hundred twenty days for the purpose of evaluating the provision of waiver nursing services, the individual's satisfaction with care delivery and performance of the licensed practical nurse, and to ensure that waiver nursing services are being provided in accordance with the approved plan of care; and
 - (b) Conduct a face-to-face visit with the directing registered nurse at least once every sixty days after the initial face-to-face visit to evaluate the provision of waiver nursing services and performance of the licensed practical nurse, and to ensure that waiver nursing services are being provided in accordance with the approved plan of care.
- (5) In all instances, when a treating physician gives verbal orders to the registered nurse or licensed practical nurse working at the direction of a registered nurse, the nurse shall record, in writing, the physician's orders, the date and time the orders were given, and sign the entry in the service documentation. The nurse shall subsequently secure documentation of the verbal orders signed and dated by the treating physician.
- (6) In all instances, when an independent provider who is a licensed practical nurse working at the direction of a registered nurse is providing waiver nursing services, the licensed practical nurse shall provide clinical notes, signed and dated by the licensed practical nurse, documenting all consultations between

the licensed practical nurse and the directing registered nurse, documenting the face-to-face visits between the licensed practical nurse and the directing registered nurse, and documenting the face-to-face visits between the licensed practical nurse, the individual receiving waiver nursing services, and the directing registered nurse. The clinical notes may be collected and maintained in electronic software programs.

- (7) Waiver nursing services may be provided on the same day as, but not concurrently with, a registered nurse assessment and/or registered nurse consultation as set forth in rule 5160-12-08 of the Administrative Code.

(E) Documentation of services

- (1) Providers of waiver nursing services shall maintain service documentation for each individual served in a manner that protects the confidentiality of the individual's records. An agency provider shall maintain service documentation at the provider's place of business. An independent provider shall maintain service documentation at the provider's place of business and maintain a copy of service documentation at the individual's residence. For purposes of this rule, the place of business must be a location other than the individual's residence.
- (2) Service documentation for waiver nursing services 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 the initial and all subsequent plans of care, specifying the type, frequency, scope, and duration of the waiver nursing services being performed. When waiver nursing services are performed by a licensed practical nurse working at the direction of a registered nurse, service documentation shall include documentation that the registered nurse has reviewed the plan of care with the licensed practical nurse. The plan of

care shall be recertified by the treating physician every sixty days, or more frequently if there is a significant change in the individual's condition.

- (f) Documentation of verbal orders from the treating physician in accordance with paragraph (D)(5) of this rule;
- (g) The clinical notes of an independent provider who is a licensed practical nurse working at the direction of a registered nurse in accordance with paragraph (D)(6) of this rule;
- (h) A copy of any advance directives including, but not limited to, a "do not resuscitate" order or medical power of attorney, if they exist;
- (i) Documentation of drug and food interactions, allergies, and dietary restrictions;
- (j) Clinical notes and other documentation of tasks performed or not performed, arrival and departure times for each date, and the dated signatures of the provider and individual or the individual's authorized representative, verifying the service delivery upon completion of service delivery. The individual's or authorized representative's signature of choice shall be documented in the individual service plan and may include, but is not limited to, a handwritten signature, initials, a stamp or mark, or an electronic signature;
- (k) Clinical notes signed and dated by the registered nurse or licensed practical nurse working at the direction of a registered nurse, documenting all communications with the treating physician and other members of the multi-disciplinary team; and
- (l) A discharge summary, signed and dated by the departing registered nurse or licensed practical nurse working at the direction of a registered nurse, that includes information regarding progress made toward goal achievement and indicates any recommended follow-ups or referrals, at the point the registered nurse or licensed practical nurse working at the direction of a registered nurse is no longer going to provide services to the individual or when the individual no longer needs waiver nursing services.

(F) Payment standards

- (1) The billing units, service codes, and payment rates for waiver nursing services are contained in the appendix to this rule.
- (2) Providers shall submit claims for payment for waiver nursing services to the Ohio department of medicaid in accordance with rule 5160-41-22 of the Administrative Code.
- (3) Services defined in paragraph (B)(11) of rule 5123:2-9-56 of the Administrative Code may be reimbursed as waiver nursing services when provided incidental to waiver nursing services performed during an authorized waiver nursing services visit.

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