

5123:2-9-30

Home and community-based services waivers - homemaker/personal care under the individual options and level one waivers.

(A) Purpose

The purpose of this rule is to define homemaker/personal care 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 certified under rules adopted by the department.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Direct contact" means exercising supervision or control over an individual enrolled in a waiver and for whom a provider will be providing homemaker/personal care.
- (5) "Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty-two minutes of service delivery time.
- (6) "Funding range" means one of the dollar ranges contained in appendix A to rule 5123:2-9-06 of the Administrative Code to which individuals enrolled in the individual options waiver have been assigned for the purpose of funding services. The funding range applicable to an individual is determined by the score derived from the Ohio developmental disabilities profile that has been completed by a county board employee qualified to administer the tool.
- (7) "Group size" means the number of individuals who are sharing services, regardless of the funding source for those services.
- (8) "Homemaker/personal care" means the coordinated provision of a variety of services, supports, and supervision necessary for the health and welfare of an individual which enables the individual to live in the community. These are tasks directed at increasing the independence of the individual within his or her home or community. The service includes tasks directed at the individual's immediate environment that are necessitated by his or her physical or mental (including emotional and/or behavioral) condition and are of a supportive or maintenance type. Homemaker/personal care helps the individual meet daily living needs, and without the service, alone or in combination with other waiver services, the individual would require

institutionalization. Homemaker/personal care may not be used at the same time as any non-residential habilitation or supported employment services.

- (a) The homemaker/personal care provider performs such tasks as assisting the individual with activities of daily living, personal hygiene, dressing, feeding, transfer, and ambulatory needs or skills development. Skills development is intervention that focuses on both preventing the loss of skills and enhancing skills that are already present that will lead to greater independence within the residence or the community. The provider may also perform homemaking tasks for the individual. These tasks may include cooking, cleaning, laundry, and shopping, among others. Homemaking and personal tasks are combined into a single service titled homemaker/personal care because, in actual practice, a provider performs both services and does so as part of the natural flow of the day.
- (b) Examples of supports that may be provided as a component of homemaker/personal care include the following:
- (i) Basic personal care and grooming, including bathing, care of the hair, and assistance with clothing;
 - (ii) Assistance with bladder and/or bowel requirements or problems, including helping the individual to and from the bathroom or assisting the individual with bedpan routines;
 - (iii) Assisting the individual with self-medication or provision of medication administration for prescribed medications and assisting the individual with, or performing, health care activities;
 - (iv) Performing household services essential to the individual's health and comfort in the home (e.g., necessary changing of bed linens or rearranging of furniture to enable the individual to move about more easily in his or her home);
 - (v) Assessing, monitoring, and supervising the individual to ensure the individual's safety, health, and welfare;
 - (vi) Light cleaning tasks in areas of the home used by the individual;
 - (vii) Preparation of a shopping list appropriate to the individual's dietary needs and financial circumstances, performance of grocery shopping activities as necessary, and preparation of meals;
 - (viii) Personal laundry; and

- (ix) Incidental neighborhood errands as necessary, including accompanying the individual to medical and other appropriate appointments and accompanying individual for walks outside the home.
- (9) "Independent provider" means a self-employed person who provides services for which he or she must be certified under rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (10) "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.
- (11) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (12) "Informal respite" has the same meaning as in rule 5123:2-9-21 of the Administrative Code.
- (13) "Institutional respite" has the same meaning as in rule 5123:2-9-22 of the Administrative Code.
- (14) "Ohio developmental disabilities profile" means the standardized instrument utilized by the department to assess the relative needs and circumstances of an individual enrolled in the individual options waiver compared to others. The individual's responses are scored and the individual is linked to a funding range, which enables similarly situated individuals to access comparable waiver services paid in accordance with rules adopted by the department.
- (15) "Residential respite" has the same meaning as in rule 5123:2-9-34 of the Administrative Code.
- (16) "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.
- (17) "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.
- (18) "Transportation" has the same meaning as in rule 5123:2-9-24 of the

Administrative Code.

(19) "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) Homemaker/personal care 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 job and family services.

(2) Homemaker/personal care 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 except that the Lorain county board may continue to provide or subcontract to provide homemaker/personal care for no more than the number of individuals enrolled in the individual options waiver it served on July 1, 2005.

(3) An applicant seeking approval to provide homemaker/personal care shall meet the requirements of this rule and complete and submit an application and adhere to the requirements of either rule 5123:2-2-01 or 5123:2-3-19 of the Administrative Code, as applicable.

(4) Providers licensed under section 5123.19 of the Revised Code seeking to provide homemaker/personal care shall:

(a) Meet all of the requirements set forth in and maintain a license issued under section 5123.19 of the Revised Code.

(b) Maintain a current medicaid provider agreement with the Ohio department of job and family services.

(c) Provide to the department written assurance to arrange for substitute coverage, if necessary, only from a provider certified by the department and as identified in the individual service plan; notify the individual or legally responsible person in the event that substitute coverage is necessary; and notify the person identified in the individual service plan when substitute coverage is not available to allow such person to make other arrangements.

(5) Each independent provider and each employee, contractor, and employee of a contractor of an agency provider who has direct contact with individuals receiving homemaker/personal care shall annually complete eight hours of training, in accordance with standards established by the department.

- (a) The training shall enhance the skills and competencies of the independent provider or employee/contractor of the agency provider relevant to his or her job responsibilities and shall include, but is not limited to:
- (i) The provisions governing rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code.
 - (ii) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety.
 - (iii) The requirements relative to the independent provider's or employee's/contractor's role in providing behavior support to the individuals he or she serves.
- (b) The training may be structured or unstructured and may include, but is not limited to, lectures, seminars, formal coursework, workshops, conferences, demonstrations, visitations or observations of other facilities/services/programs, distance and other means of electronic learning, video and audio-visual training, and staff meetings.
- (c) The provider shall maintain a written record, which may include an electronic record, of training. This information shall be presented upon request by the Ohio department of job and family services, the department, or the county board. Documentation shall include the name of the person receiving the training, date of training, training topic, duration of training, instructor's name if applicable, and a brief description of the training.
- (6) Failure of a certified provider 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.
- (7) Failure of a licensed provider to comply with this rule and Chapter 5123:2-3 of the Administrative Code may result in denial, suspension, or revocation of the provider's license.

(D) Requirements for service delivery

- (1) Homemaker/personal care shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (H) of rule 5101:3-40-01 of the Administrative Code or paragraph (H) of rule 5101:3-42-01 of the Administrative Code, as applicable.
- (2) Homemaker/personal care shall not be provided to an individual at the same time as any non-residential services.

(3) Homemaker/personal care shall not be provided to an individual at the same time as institutional respite or residential respite.

(4) Homemaker/personal care services extend to those times when the individual is not physically present and the provider is performing homemaker activities on behalf of the individual.

(E) Documentation of services

Service documentation for homemaker/personal care shall include each of the following to validate payment for medicaid services:

(1) Type of service.

(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) Written or electronic signature of the person delivering the service or initials of the person delivering the service if a signature and corresponding initials are on file with the provider.

(9) Group size in which the service was provided.

(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.

(11) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.

(12) Begin and end time of the delivered service.

(F) Payment standards

(1) The billing units, service codes, and payment rates for homemaker/personal care are contained in appendix A to this rule. Payment rates include an adjustment based on the county cost-of-doing-business category. The

cost-of-doing-business category for an individual is the category assigned to the county in which the service is actually provided for the preponderance of time. The cost-of-doing-business categories are contained in appendix B to this rule.

- (2) Payment rates for homemaker/personal care are established separately for services provided by independent providers and services provided through agency providers.
- (3) The base rate paid to a provider of homemaker/personal care shall be adjusted to reflect the number of individuals sharing services.

 - (a) If two individuals receive service from one staff member, the base rate shall be one hundred seven per cent of the base rate for one-to-one service. If three individuals share the service, the base rate shall be one hundred seventeen per cent of the base rate of one-to-one service. If four or more individuals share the service, the base rate shall be one hundred thirty per cent of the base rate for one-to-one service.
 - (b) The base rate established is divided by the number of individuals sharing the service to determine the rate paid per individual.
- (4) Payment rates for routine homemaker/personal care may be modified to reflect the needs of individuals requiring behavior support and individuals requiring medical assistance. Only individuals meeting criteria established by the department as specified in paragraphs (F)(4)(a) and (F)(4)(b) of this rule shall be eligible for these rate modifications. Upon determination by the county board that the individual meets the criteria, the county board shall recommend and implement rate modifications for behavior support and/or medical assistance. Rate modifications are subject to review by the department. The duration of approval for behavior support and/or medical assistance rate modifications shall be limited to the individual's twelve-month waiver eligibility span prior to re-determination and may be determined needed or no longer needed within that twelve-month waiver eligibility span. Rate modifications shall be renewed annually at the individual's eligibility re-determination date if the individual continues to meet the criteria. A modification to the homemaker/personal care rate shall be applied for each individual in a congregate setting meeting the criteria and shall be included in the payment rates of only those individuals meeting the criteria. The Ohio department of job and family services retains final authority to review, revise, and approve any element of the decision process resulting in a determination to make a behavior support or medical assistance modification to the homemaker/personal care payment rate.

 - (a) The behavior support rate modification is applicable to routine homemaker/personal care only and shall be paid during all times when

routine homemaker/personal care is provided to an individual who qualifies for the modification. The amount of the behavior support rate modification for each fifteen-minute billing unit of service is contained in appendix A to this rule.

(i) The purpose of the behavior support rate modification is to provide funding for the implementation of behavior support plans by staff who have the level of training necessary to implement the plans and who are working under the direction of licensed or certified personnel or other professionals who have specialized training or experience implementing behavior support plans.

(ii) In order for an individual to receive the behavior support rate modification, the following conditions shall be met:

(a) The individual presents a danger to self or others or has been assessed to have the potential to present a danger; and

(b) A behavior support plan that is a component of the individual service plan has been developed in accordance with the requirements in rules established by the department; and

(c) The individual routinely receives clinical services from a licensed, certified, or other professional who has specialized training or experience related to the design, development, and implementation of behavior support plans; and

(d) The individual either:

(i) Responds "yes" to at least four items in question number thirty-two of the behavior domain of the Ohio developmental disabilities profile; or

(ii) Requires a structured environment that, if removed, will result in the individual's engagement in behavior destructive to self or others.

(iii) When determined through the individual service plan development process that the criteria contained in paragraph (F)(4)(a)(ii) of this rule have been met, the county board shall apply the behavior support rate modification for routine homemaker/personal care. The department retains the right to review and validate the qualifications of any provider of clinical services identified in accordance with paragraph (F)(4)(a)(ii)(c) of this rule.

(b) The medical assistance rate modification is applicable to routine homemaker/personal care only and shall be paid during all times when

routine homemaker/personal care is provided to an individual who qualifies for the modification. The amount of the medical assistance rate modification for each fifteen-minute billing unit of service is contained in appendix A to this rule. The county board shall apply the medical assistance rate modification when the following criteria have been met:

(i) An individual requires routine feeding and/or the administration of prescribed medications through gastrostomy and/or jejunostomy tubes, and/or requires the administration of routine doses of insulin through subcutaneous injections and insulin pumps; or

(ii) An individual requires a nursing procedure or nursing task that a licensed nurse agrees to delegate in accordance with rules in Chapter 4723-13 of the Administrative Code, which is provided in accordance with section 5123.42 of the Revised Code, and when such procedure or nursing task is not the administration of oral or topical medication or a health-related activity as defined in rule 5123:2-6-01 of the Administrative Code.

(5) The individual service plan development process shall be used to determine the frequency, duration, and scope of homemaker/personal care services to be paid at the on-site/on-call rate.

(a) A provider shall be paid at the on-site/on-call rate for homemaker/personal care contained in appendix A to this rule when:

(i) Based upon assessed and documented need, the individual service plan indicates the days of the week and the beginning and ending times each day when it is anticipated that an individual will require on-site/on-call services; and

(ii) The individual is asleep and does not require intervention or assistance during this time; and

(iii) The homemaker/personal care provider is required to be on-site, but is not required to remain awake; and

(iv) On-site/on-call time does not exceed eight hours for the individual in any twenty-four-hour period.

(b) A provider shall be paid the routine homemaker/personal care rate when an individual receives intervention/supports during the times the individual service plan indicates a need for on-site/on-call services. In these instances, the provider shall document the dates and start and stop times during which intervention/supports were provided to the individual.

- (c) Neither the behavior support nor the medical assistance rate modification is applicable to the on-site/on-call payment rates for homemaker/personal care.
- (6) Payment for homemaker/personal care does not include room and board, items of comfort and convenience, or costs for the maintenance, upkeep, and improvement of the home.
- (7) Under the level one waiver, payment for homemaker/personal care, informal respite, institutional respite, and transportation, alone or in combination, shall not exceed five thousand dollars per waiver eligibility span.

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