

## TO BE RESCINDED

173-39-02.11      **Personal care service.**

(A) Personal care is a service designed to enable a consumer to achieve optimal functioning with ADLs and IADLs, and includes personal care services and homemaking tasks appropriate to a consumer's needs. Personal care services must be provided in the consumer's place of residence.

Personal care activities may include, but are not limited to:

- (1) Assisting the consumer with managing the household, handling personal affairs, and providing assistance with self-administration of medications, as defined in rule 173-39-01 of the Administrative Code;
  - (2) Assisting the consumer with eating, bathing, dressing, personal hygiene, grooming, and other activities of daily living and instrumental activities of daily living described in rule 5101:3-3-08 of the Administrative Code;
  - (3) The preparation of the consumer's meals;
  - (4) Housekeeping chores, as defined in rule 173-39-02.8 of the Administrative Code, when they are specified in the consumer's service plan and are incidental to the services furnished, or are essential to the health and welfare of the individual, rather than the individual's family; and,
  - (5) The provision of respite services to the consumer's caregiver.
- (B) Eligible providers of personal care services are ODA-certified long-term care agency providers and ODA-certified consumer-directed personal care providers.
- (C) Requirements for an agency provider in addition to the conditions of participation under rule 173-39-02 of the Administrative Code:
- (1) A certified provider of personal care services must maintain evidence that it:
    - (a) Has the capacity to deliver services seven days a week;
    - (b) Has a system in place to ensure that the provider nurse supervisor is accessible to respond to emergencies during those times when the provider's employees are scheduled to work;
    - (c) Maintains a back-up plan for service delivery in the event of a staff person's absence;

- (d) Maintains a consumer record documenting each episode of service delivery.  
The record must include the date of service delivery, a description of the service tasks performed, the name of the personal care aide (PCA) providing services, the PCA's arrival and departure time, and the PCA's written or electronic signature to verify the accuracy of the record. A provider that does not utilize an electronic verification system to document services and keep records must also obtain the consumer's signature for each episode of service.
- (e) Offers to provide consumers and case managers with monthly reports of services delivered that include the date of service delivery, the service tasks performed, the name of the personal care aide (PCA) providing services, the PCA's arrival and departure time, if the provider has an electronic verification system.
- (f) Requires all employees who will have direct, face-to-face contact with consumers to complete an orientation and training prior to working with the consumers that cover, but are not limited to:
  - (i) Expectations of employees;
  - (ii) The employee code of conduct;
  - (iii) An overview of personnel policies;
  - (iv) Incident reporting procedures;
  - (v) A description of the provider agency's organization and lines of communication; and,
  - (vi) Emergency procedures.
- (g) Has developed and complies with written policies and procedures, as applicable, that support the operation of the business and the provision of services. At a minimum, the policies and procedures must address:
  - (i) Reporting and documenting consumer incidents;
  - (ii) Obtaining a consumer's written permission to share information and/or release information to anyone and compliance with the requirements described in rule 173-39-02 of the Administrative Code;
  - (iii) The content, handling, storage and retention of consumer records;

- (iv) Personnel requirements including:
  - (a) Job descriptions for each position;
  - (b) The documentation of each employee's qualifications for the service(s) to be provided;
  - (c) Performance appraisals for all workers;
  - (d) The documentation of compliance with required staff orientation training; and,
  - (e) Compliance with the code of conduct described in rule 173-39-02 of the Administrative Code.
- (2) Certified providers of personal care must maintain evidence of compliance with the following personnel requirements:
  - (a) Each PCA must, at a minimum, meet at least one of the following requirements:
    - (i) Be listed on the Ohio department of health's nurse aide registry;
    - (ii) Successfully complete the medicare competency evaluation program for home health aides set forth in 42 C.F.R. Part 484., as a direct care health care worker without a twenty-four month lapse in employment as a home health aide or nurse aide;
    - (iii) Have at least one year employment experience as a supervised home health aide or nurse aide, and have successfully completed written testing and skills testing by return demonstration prior to initiation of service provision;
    - (iv) Successfully complete the COALA home health training program, or a certified vocational program in a health care field, and successfully complete written testing and skills testing by return demonstration prior to initiation of service provision; or,
    - (v) Successfully complete sixty hours of training, including, but not limited to instruction on:
      - (a) Communication skills, including the ability to read, write and make brief and accurate oral or written reports;

- (b) Observation, reporting and documentation of consumer status and services provided;
  - (c) Reading and recording temperature, pulse and respiration;
  - (d) Universal precautions for infection control procedures;
  - (e) Basic elements of body functioning and changes in body function that should be reported to a supervisor;
  - (f) The maintenance of a clean, safe and healthy environment, including but not limited to house cleaning and laundry, dusting furniture, sweeping, vacuuming, and washing floors; kitchen care (including dishes, appliances, and counters), bathroom care, emptying and cleaning bedside commodes and urinary catheter bags, changing bed linens, washing inside windows within reach from the floor, removing trash, and folding, ironing and putting away laundry;
  - (g) Recognition of emergencies, knowledge of emergency procedures, and basic home safety;
  - (h) The physical, emotional and developmental needs of consumers, including the need for privacy and respect for consumers and their property;
  - (i) Appropriate and safe techniques in personal hygiene and grooming that include: bed, tub, shower, and partial bath techniques; shampoo in sink, tub, or bed; nail and skin care; oral hygiene; toileting and elimination; safe transfer and ambulation; normal range of motion and positioning; and adequate nutrition and fluid intake; and
  - (j) Meal preparation and nutrition planning, including special diet preparation, grocery purchase, planning, and shopping, and errands for the sole purpose of picking up prescriptions.
- (vi) The provider must document training and testing for PCA staff, including training site information, the date of training, the number of hours of training, a list of the instruction materials, a description of the subject areas covered, the qualifications of the trainer and tester, the signatures of the trainer and tester to verify the accuracy of the documentation, and all testing results.

- (b) Prior to the provision of services for a consumer, the provider must conduct written testing and skill testing by return demonstration for all PCA staff that are qualified as a PCA by meeting the requirements of paragraph (C)(2)(a)(v) of this rule, and tests must cover all subject areas listed under paragraph (C)(2)(a)(v) of this rule.
  - (c) The provider must conduct additional training and skill testing by return demonstration for PCA staff expected to provide services not included in the training subjects listed in this rule.
  - (d) The provider must maintain evidence that each PCA has successfully completed eight hours of in-service continuing education, excluding agency and program specific orientation, every twelve months.
  - (e) The PCA supervisor trainer and tester may only be a RN or a LPN under the direction of a RN.
- (3) The provider must maintain evidence of compliance with the following supervisory requirements:
- (a) Prior to consumer service initiation, the supervisor must complete and document a consumer home visit, which may occur at the initial PCA visit to the consumer, to define the expected activities of the PCA and prepare a written PCA activity plan;
  - (b) After the consumer service initiation, the supervisor must conduct and document a visit to the consumer at least once every sixty-two days to evaluate compliance with the activity plan, consumer satisfaction, and PCA performance. The supervisor must discuss recommended modifications with the case manager and PCA. The PCA need not be present during this visit. The visit must be documented. The documentation must include the date of the visit, the name of the PCA supervisor, name of the consumer, and must include the signature of the consumer and the PCA supervisor or the electronic signature of the PCA supervisor;
  - (c) The provider must have a mechanism to verify:
    - (i) Whether the PCA is present at the location where the services are to be provided and at the time the services are to be provided;
    - (ii) At the end of each working day, whether the provider's employees have provided the services at the proper location and time;

- (iii) A protocol to be followed in scheduling a substitute employee when the monitoring system identifies that an employee has failed to provide home care services at the proper location and time, including standards for determining the length of time that may elapse without jeopardizing the health and safety of the consumer;
  - (iv) Procedures for maintaining records of the information obtained through the monitoring system;
  - (v) Procedures for compiling annual reports of the information obtained through the monitoring system, including statistics on the rate at which home care services were provided at the proper location and time; and,
  - (vi) Procedures for conducting random checks of the accuracy of the monitoring system. For purposes of conducting these checks, a random check is considered to be a check of not more than five per cent of the home care visits each PCA makes to different consumers.
- (D) Requirements for a consumer-directed personal care provider in addition to the conditions of participation under rule 173-39-02 of the Administrative Code:
- (1) In general:
    - (a) Availability: The provider shall provide the service as agreed upon with the consumer and as authorized in the consumer's service plan.
    - (b) Activity plan: The consumer shall develop his or her own activity plan with the provider. The consumer and the provider shall date and sign a copy of the plan. The provider shall retain a copy of the plan.
  - (2) Oversight: The consumer is the employer of record and is responsible for supervising the provider. As used in this paragraph, "employer of record" means the consumer who employs the provider; supervises the provider; pays the appropriate state, federal, and local taxes; and pays premiums for worker's compensation and unemployment compensation insurance. ODA provides the support of a financial management service (FMS) to the consumer to act as the agent of the common-law employer with the consumer-directed personal care provider that he or she employs.
  - (3) Provider qualifications:

(a) Initial qualifications: A provider shall only begin to furnish the personal care service if the provider meets the following criteria and retains records to show that he or she meets the following criteria:

(i) The provider shall meet at least one of the following qualifications:

(a) The Ohio department of health lists the provider as active on its state tested nurse aide registry;

(b) The provider has successfully completed an ODA-approved home health aide training program; or,

(c) The provider has successfully completed an apprenticeship program in home health, health, or a related subject approved by the United States department of labor.

(ii) The provider has successfully completed any additional training that the consumer or ODA's designee considers necessary to meet the consumer's needs.

(iii) The provider has successfully completed any training that ODA (or its designee) or ODJFS mandates.

(iv) The provider has successfully demonstrated his or her competence or mastery of a task in a specific area in which the consumer may require the provider to demonstrate the competence or mastery.

(b) Continuing qualifications: The provider shall only continue to provide the personal care service if he or she meets the following criteria:

(i) The provider meets the criteria under paragraph (D)(3)(a) of this rule. If the provider no longer meets this criteria, the provider shall no longer provide the personal care service.

(ii) The provider has successfully completed at least twelve hours of in-service training during the previous twelve months on a topic related to the consumer's activity plan.

(4) Service-verification:

(a) The provider shall complete the time sheets the consumer furnishes through the financial management service, which shall include the date the provider furnished the service, a description of the interventions the provider furnished, the consumer's name, the consumer's signature, the

provider's name, the provider's arrival and departure times, and the provider's written or electronic signature to verify the accuracy of the record.

- (b) The provider shall retain records required under this rule and provide access to those records for monitoring according to paragraph (F)(5) of rule 173-39-02 of the Administrative Code.

(E) Units and rates:

- (1) One unit of personal care service is equal to fifteen minutes.
- (2) In accordance with rule 5101:3-31-07 of the Administrative Code, if the same provider furnishes personal care services during the same visit to more than one but fewer than four PASSPORT consumers in the same household, as identified in the consumers' service plans, the provider's reimbursement rate for services provided to one person in the household shall be one hundred per cent of the per-unit rate in the provider's contract with ODA's designee and seventy-five per cent of the per-unit rate for each subsequent PASSPORT consumer in the household receiving services during the visit. As used in this paragraph, "in the same household" does not refer to a PASSPORT consumer who resides alone in an apartment building where another consumer may reside alone in a separate apartment.
- (3) The maximum rates allowable for units of the service are established in appendix A to rule 5101:3-1-06.1 of the Administrative Code.



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CERTIFIED ELECTRONICALLY

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Certification

04/12/2018

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Date

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