

5101:3-12-04

**Consumer eligibility for Ohio home care benefits.**

Before a consumer can receive home care services through the Ohio home care program, the consumer must be enrolled in one of the ODJFS-administered home care benefit packages, or be enrolled in one of the HCBS waiver programs administered by the Ohio department of aging or the Ohio department of mental retardation and developmental disabilities (ODMR/DD). Consumers are not eligible for home care benefits if they are receiving ~~hospice services through medicare or medicaid,~~ or services through the program of all inclusive care for the elderly (PACE) reimbursed by medicaid. Consumers who are electing the hospice benefit will receive their home care benefits in accordance with rule 5101:3-56-02 of the Administrative Code.

(A) To be eligible for services under the core benefit package:

- (1) The consumer must be medicaid eligible as determined by a CDJFS.
- (2) The consumer's nursing and/or daily living service needs must be entirely met under the core benefit package with part-time and intermittent home care services. Consumers are considered to require part-time and intermittent home care if they need:
  - (a) Less than eight hours of home care services per date of service; and
  - (b) Only intermittent nursing, daily living and/or therapy visits; and
  - (c) No more than a combined total of fourteen hours of nursing and daily living visits a week.

(B) To be eligible for services under the core-plus benefit package:

- (1) The consumer must be medicaid eligible as determined by the CDJFS.
- (2) ODJFS or its designee must determine that it is appropriate and medically necessary for the consumer to receive:
  - (a) More than eight hours of home care services per date of service; or
  - (b) Continuous care nursing visits; or
  - (c) More than a combined total of fourteen hours of nursing and daily living visits a week.

(3) ODJFS or its designee must:

- (a) Assign to the consumer an individual cost cap in accordance with rule 5101:3-12-09 of the Administrative Code; and
- (b) Approve the amount, scope and duration of services to be covered for the consumer, and document it in the all services plan;

(C) To be eligible for services under an ODJFS-administered waiver benefit package, the following criteria must be met:

(1) At the time of enrollment on the Ohio home care waiver:

- (a) The consumer regardless of age, must have a skilled level of care in accordance with rule 5101:3-3-05 of the Administrative Code, have a chronic, unstable medical condition that requires the skills of a registered nurse to detect and evaluate the consumer's need for possible treatment or for instituting nursing procedures, and in the absence of the ODJFS-administered HCBS waiver, would require long term hospitalization or NF placement; or
- (b) The consumer, if under the age of sixty, must have an intermediate level of care in accordance with rule 5101:3-3-06 of the Administrative Code, and in the absence of an ODJFS-administered HCBS waiver would require NF placement;.

(2) At the time of enrollment on the transitions waiver:

- (a) The consumer must be enrolled on the Ohio home care waiver; and
- (b) The consumer must have an ICF-MR level of care in accordance with rule 5101:3-3-07 of the Administrative Code; and
- (c) The consumer must need habilitation services.

(3) Medicaid eligibility has been determined by a CDJFS in accordance with rules 5101:1-39-94 and 5101:1-39-95 of the Administrative Code.

(4) The needed service(s) is not readily available through another source, with the sole exception of the Ohio rehabilitation services commission's personal care

program.

- (5) Health-related needs can be met safely in a home and/or community setting as determined by ODJFS or its designee. Information which may be used in the determination includes, but is not limited to:
  - (a) The initial evaluation of the consumer and the consumer's home environment by ODJFS or its designee;
  - (b) Ongoing monitoring of the consumer's health status and home environment by ODJFS or its designee;
  - (c) A demonstration of the skills required of the primary care giver, when deemed necessary by ODJFS or its designee; and/or
  - (d) Any other information supplied by members of the interdisciplinary team.
- (6) The consumer or authorized representative has completed and signed the JFS 02379~~ODJFS-2379~~ "Agency Client Agreement."
- (7) The designated ODJFS-administered HCBS waiver program has not reached the CMS-authorized limit of participants for the current program year.
- (8) While enrolled in an ODJFS-administered HCBS waiver, the consumer must live in a residence which is not a "Keys Admendment" ~~keys amendment~~ facility as defined in Section section 1616(e) of the Social Security Act (dated January 1, 2003), which means an institution, foster home, or group living arrangement in which (as determined by the state) a significant number of recipients of supplemental security income benefits is residing or is likely to reside.
- (9) While enrolled in an ODJFS-administered HCBS waiver, if the consumer does not receive any nursing, daily living service or waiver services as described in rule 5101:3-12-07 of the Administrative Code, for ninety consecutive days, ODJFS or its designee shall within ten days of the ninetieth day, assess the consumer's current needs for waiver services, and discuss these needs with the consumer or the consumer's ~~their~~ representative. As a result of the assessment and discussion, if no nursing, daily living services or waiver services are scheduled to be delivered to the consumer, he or she shall be disenrolled from the ODJFS-administered HCBS waiver in which he/she is enrolled.

- (D) If at the time of annual review of eligibility for an ODJFS-administered waiver benefit package and at the time of any change in the consumer's medical condition and/or functional ability, it is determined that a consumer's medical condition and/or functional ability has improved such that he or she does not meet the eligibility criteria enumerated in paragraph (C) of this rule, then he or she shall be disenrolled from the ODJFS-administered HCBS waiver in which he/she is enrolled.
  
- (E) To be eligible for the PASSPORT HCBS waiver program, the individual must meet the criteria set forth in Chapter 5101:3-31 of the Administrative Code.
  
- (F) To be eligible for the individual options and the residential facility HCBS waiver programs, the individual must meet the criteria set forth in Chapters 5101:3-40 and 5101:3-43 of the Administrative Code.
  
- (G) To be eligible for the choices waiver, the individual must meet the criteria set forth in rules 5101:3-32-02 to 5101:3-32-06 of the Administrative Code.

Effective:

R.C. 119.032 review dates: 11/16/2004

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5111.02  
Rule Amplifies: 5111.01, 5111.02  
Prior Effective Dates: 3/4/77, 12/21/77, 6/1/80/  
4/1/88, 5/15/89, 3/12/92  
(emer.), 6/1/92, 7/31/92  
(emer), 10/30/92, 3/30/93  
(emer), 7/30/93, 7/1/98,  
9/29/00, 4/30/02