

5101:3-3-08 **Protective level of care.**

(A) This rule sets forth the criteria used to determine whether an individual who is seeking medicaid payment for long term care services (as defined in rule 5101:3-3-15 of the Administrative Code) needs services at the protective care level.

(B) Definitions:

(1) "Activity of daily living (ADL)" means a personal or self-care skill performed, with or without the use of assistive devices, on a regular basis that enables the individual to meet basic life needs for food, hygiene, and appearance. For purposes of this rule, the term "ADL" may refer to any of the following:

(a) "Mobility" is the ability to use fine and gross motor skills to reposition or move oneself from place to place, with or without the use of assistive devices. Mobility includes all of the following:

(i) "Bed mobility," the ability to move to and/or from a lying position, turn from side to side, or otherwise position the body while in bed;

(ii) "Transfer," the ability to move between surfaces (e.g. to/from bed, chair, wheelchair, standing position, etc.); and

(iii) "Locomotion," the ability to move between locations by ambulation or by other means.

(b) "Bathing" is the ability to cleanse one's body by showering, tub or sponge bath, or any other generally accepted method, and may be performed with or without the use of assistive devices.

(c) "Grooming" is the ability to perform the tasks associated with oral hygiene, hair care, and nail care.

(d) "Toileting" is the ability to appropriately eliminate and dispose of bodily waste, with or without the use of assistive devices or appliances. Toileting may include the use of a commode, bedpan, or urinal, the ability to change an absorbent pad, and to appropriately cleanse the perineum; and/or the ability to manage an ostomy or catheter;

(e) "Dressing" is the ability to put on, fasten, and take off all items of clothing, including the donning and/or removal of prostheses;

- (f) "Eating" is the ability to feed oneself. Eating includes the processes of food preparation, getting food into one's mouth, chewing, and swallowing, and/or the ability to use and self-manage a feeding tube.
- (2) "Assistance" means the hands-on provision of help in the initiation and/or completion of a task.
 - (3) "Individual" has the same meaning as in rule 5101:3-3-15 of the Administrative Code.
 - (4) "Instrumental activity of daily living (IADL)" means a community living skill performed, with or without the use of assistive devices, on a regular basis that enables the individual to independently manage the individual's living arrangement. For the purposes of this rule, the term "IADL" may refer to any of the following:
 - (a) Shopping. "Shopping" is the ability to prepare a shopping list and purchase groceries, clothing, and household items;
 - (b) Meal preparation. "Meal preparation" is the ability to plan nutritional meals and cook any type of food;
 - (c) Environmental management. "Environmental management" is the ability to maintain the living arrangement in a manner that ensures the health and safety of the individual. Environmental management includes all of the following:
 - (i) House cleaning. "House cleaning" is the ability to make beds, clean the bathroom, sweep and mop floors, dust, clean and store dishes, pick up clutter, and take out trash;
 - (ii) Heavy chores. "Heavy chores" means the ability to move heavy furniture and appliances for cleaning, turn mattresses, and wash windows and walls; and
 - (iii) Yardwork and/or maintenance. "Yardwork and/or maintenance" is the ability to care for the lawn, rake leaves, shovel snow, complete minor home repairs, and paint.
 - (d) Personal laundry. "Personal laundry" is the ability to wash and dry clothing and household items by machine or by hand.

- (e) Accessing community services. "Accessing community services" is the ability to interface with the community. Accessing community services includes all of the following:
 - (i) Telephoning. "Telephoning" is the ability to make and answer telephone calls;
 - (ii) Accessing transportation. "Accessing transportation" is the ability to acquire and use transportation; and
 - (iii) Managing legal and/or financial affairs. "Managing legal and/or financial affairs" is the ability to pay bills, write checks, balance a check book, access insurance and public benefits, and interact with the legal system.
- (5) "Medication administration" means the ability to prepare and self-administer all forms of over the counter and prescription medication.
- (6) "Supervision" means either of the following:
 - (a) Reminding an individual to perform or complete an activity; or
 - (b) Observing while an individual performs an activity to ensure the individual's health and safety.
- (C) An individual may be determined to require protective care, only if both of the following conditions are met:
 - (1) The individual's physical and mental condition and resulting service needs have been evaluated and compared to all of the possible levels of care, and it has been determined in accordance with rule 5101:3-3-15 of the Administrative Code that the individual's condition and/or corresponding service needs do not meet the criteria for skilled care, intermediate care, or for an ICF-MR level of care set forth in rules 5101:3-3-05 to 5101:3-3-07 of the Administrative Code; and
 - (2) The individual requires either:
 - (a) Both of the following:

- (i) Supervision of one ADL or supervision of self-administration of medication; and
 - (ii) Assistance with three IADLs; or
- (b) Due to a cognitive impairment, including but not limited to dementia (as defined in rule ~~5101:3-3-15~~5101:3-3-15.1 of the Administrative Code), the individual requires the presence of another person, on less than a twenty-four-hour-a-day basis for the purpose of supervision to prevent harm.

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