

5101:3-3-08**Criteria for nursing facility-based level of care.**

(A) This rule describes the criteria for an individual to meet the nursing facility (NF)-based level of care. The NF-based level of care includes the intermediate and skilled levels of care. An individual is determined to meet the NF-based level of care when the individual meets the criteria as described in paragraphs (B) to (D) of this rule.

(B) The criteria for the intermediate level of care is met when:

(1) The individual's needs for long-term services and supports (LTSS), as defined in rule 5101:3-3-05 of the Administrative Code, exceed the criteria for the protective level of care, as described in paragraph (B)(3) of rule 5101:3-3-06 of the Administrative Code.

(2) The individual's LTSS needs are less than the criteria for the skilled level of care, as described in paragraph (D)(4) of this rule.

(3) The individual's LTSS needs do not meet the criteria for the ICF-MR-based level of care, as defined in rule 5101:3-3-05 of the Administrative Code.

(4) The individual has a need for a minimum of one of the following:

(a) Assistance, as defined in rule 5101:3-3-05 of the Administrative Code, with the completion of a minimum of two activities of daily living (ADL), as defined in rule 5101:3-3-05 of the Administrative Code and as described in paragraph (C) of this rule;

(b) Assistance with the completion of a minimum of one ADL as described in paragraph (C) of this rule, and assistance with medication administration, as defined in rule 5101:3-3-05 of the Administrative Code;

(c) A minimum of one skilled nursing service or skilled rehabilitation service, as defined in rule 5101:3-3-05 of the Administrative Code; or

(d) Twenty-four hour support, as defined in rule 5101:3-3-05 of the Administrative Code, in order to prevent harm due to a cognitive impairment, as diagnosed by a physician or other licensed health professional acting within his or her applicable scope of practice, as defined by law.

(C) For the purposes of meeting the criteria described in paragraph (B)(4) of this rule, an individual has a need in an ADL when:

(1) The individual requires assistance with mobility in at least one of the following three components:

(a) Bed mobility;

(b) Locomotion; or

(c) Transfer.

(2) The individual requires assistance with bathing.

(3) The individual requires assistance with grooming in all of the following three components:

(a) Oral hygiene;

(b) Hair care; and

(c) Nail care.

(4) The individual requires assistance with toileting in at least one of the following four components:

(a) Using a commode, bedpan, or urinal;

(b) Changing incontinence supplies or feminine hygiene products;

(c) Cleansing self; or

(d) Managing an ostomy or catheter.

(5) The individual requires assistance with dressing in at least one of the following two components:

(a) Putting on and taking off an item of clothing or prosthesis; or

(b) Fastening and unfastening an item of clothing or prosthesis.

(6) The individual requires assistance with eating.

(D) The criteria for the skilled level of care is met when:

(1) The individual's LTSS needs exceed the criteria for the protective level of care, as described in paragraph (B)(3) of rule 5101:3-3-06 of the Administrative Code.

(2) The individual's LTSS needs exceed the criteria for the intermediate level of care as described in paragraph (B)(4) of this rule.

(3) The individual's LTSS needs exceed the criteria for the ICF-MR-based level of

care.

(4) The individual requires a minimum of one of the following:

(a) One skilled nursing service within the day on no less than seven days per week; or

(b) One skilled rehabilitation service within the day on no less than five days per week.

(5) The individual has an unstable medical condition, as defined in rule 5101:3-3-05 of the Administrative Code.

(E) When an individual meets the criteria for a skilled level of care, as described in paragraph (D) of this rule, the individual may request placement in an intermediate care facility for persons with mental retardation (ICF-MR) that provides services to individuals who have a skilled level of care. When an individual with a skilled level of care requests placement in an ICF-MR, the following requirements apply:

(1) The individual may be determined to meet the criteria for the ICF-MR-based level of care; and

(2) The ICF-MR must provide written certification that the services provided in the facility are appropriate to meet the needs of an individual who meets the criteria for a skilled level of care.

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