

5101:3-33-03

**Eligibility for the assisted living ~~HCBS~~ home and community based services (HCBS) waiver program.**

- (A) The purpose of this rule is to outline the criteria that must be met for an individual to be eligible to enroll in the assisted living ~~home and community based services (HCBS)~~ HCBS waiver.
- (B) To be eligible for the assisted living program, an individual must meet all of the following requirements:
- (1) The individual must have an intermediate or skilled level of care in accordance with rule 5101:3-3-05 or 5101:3-3-06 of the Administrative Code.
  - (2) If the individual requires skilled nursing care beyond supervision of special diets, application of dressings, or administration of medication, it must ~~only be required on a part-time, intermittent basis~~ provided in accordance with rule 3701-17-59.1 of the Administrative Code ~~for not more than a total of one hundred twenty days in any twelve month period. A part-time, intermittent basis means that skilled nursing care is needed for less than eight hours a day or less than forty hours a week.~~
  - ~~(3) At the time the individual applies for the assisted living program, be one of the following:~~
    - ~~(a) A nursing facility resident who is seeking to move to a residential care facility and would remain in the nursing facility for long term care if not for the assisted living HCBS waiver; or~~
    - ~~(b) A participant who is currently enrolled in any of the following medicaid waivers who would move to a nursing facility if not for the assisted living HCBS waiver:
      - ~~(i) The preadmission screening system providing options and resources today (PASSPORT) HCBS waiver as set forth in Chapter 5101:3-31 of the Administrative Code that the Ohio department of aging administers; or~~
      - ~~(ii) The choices HCBS waiver as set forth in Chapter 5101:3-32 of the Administrative Code that the Ohio department of aging administers; or~~
      - ~~(iii) The Ohio home care HCBS waiver as set forth in Chapter 5101:3-12 of the Administrative Code that the Ohio department of job and family services administers; or~~
      - ~~(iv) The transitions carve out waiver as set forth in Chapter 5101:3-50~~~~

~~of the Administrative Code that the Ohio department of job and family services administers.~~

~~(c) A resident of a residential care facility (RCF) who has resided in the RCF for at least six months immediately before the date the individual applies for the assisted living HCBS waiver.~~

~~(4)(3)~~ At the time of enrollment, and while receiving assisted living HCBS services, the individual must reside in a residential care facility (RCF) certified by the Ohio department of aging ODA(ODA), including:

(a) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(b) A county or district home licensed as a residential care facility.

~~(5)(4)~~ The consumer must ~~meet~~ be eligible for medicaid ~~financial eligibility~~ as determined by the county department of job and family services (CDJFS) in accordance with ~~Chapters 5101:1-37 and 5101:1-39~~ rules 5101:1-38-01.8 and 5101:1-38-01.6 of the Administrative Code.

~~(6)(5)~~ The cost of the twelve-month service plan does not exceed the cost ~~cap~~ limit in effect for the program that is based on the maximum per-diem rate for assisted living services plus the maximum amount authorized for community transition services.

~~(7)(6)~~ The individual must have the ability to make room and board payments calculated at the current supplemental security income (SSI) federal benefit level minus fifty dollars.

~~(8)(7)~~ The individual is age twenty-one or older at the time of enrollment.

~~(9)(8)~~ The assisted living HCBS waiver has not reached the centers for medicare and medicaid services (CMS) authorized limit of participants for the current year.

~~(10)(9)~~ The individual's health related needs, as determined by the PASSPORT administrative agency, can be safely met in ~~an~~ a RCF as described in paragraph ~~(B)(4)~~ (B)(3) of this rule.

- (C) Providers shall not charge or collect room and board payments from consumers ~~for room and board any amount~~ in excess of the room and board payment calculated in paragraph ~~(B)(7)~~ (B)(6) of this rule.
- (D) If, at any time, the individual or consumer fails or ceases to meet any of the eligibility criteria identified in this rule, the individual or consumer shall be denied or disenrolled from the assisted living HCBS waiver. In such instances, the individual or consumer shall be notified by the CDJFS and entitled to hearing rights in accordance with Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
- (E) An individual who has been enrolled in the assisted living HCBS waiver may subsequently be enrolled in hospice, however, an individual who is ~~first~~ enrolled in hospice and is not currently enrolled in a HCBS waiver ~~specified in paragraph (A)(2)(b) of this rule~~ is not subsequently eligible for assisted living HCBS enrollment.

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CERTIFIED ELECTRONICALLY

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Certification

09/19/2011

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Date

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