

TO BE RESCINDED

5123:2-9-56

Home and community-based services waivers - personal care aide services under the transitions developmental disabilities waiver.

(A) Purpose

The purpose of this rule is to define personal care aide services under the transitions developmental disabilities waiver and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Activity of daily living" has the same meaning as in rule 5160-3-05 of the Administrative Code.
- (2) "Agency provider" means an entity that employs persons for the purpose of providing services for which the entity must be approved by the Ohio department of medicaid.
- (3) "County board" means a county board of developmental disabilities.
- (4) "Department" means the Ohio department of developmental disabilities.
- (5) "Independent provider" means a non-agency, self-employed person approved by the Ohio department of medicaid to provide services who does not employ, either directly or through contract, anyone else to provide the services.
- (6) "Individual" means a person with a developmental disability or for the purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (7) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (8) "Instrumental activity of daily living" has the same meaning as in rule 5160-3-05 of the Administrative Code.
- (9) "Licensed practical nurse" has the same meaning as in section 4723.01 of the Revised Code.

- (10) "Personal care aide" means an independent provider or an employee of an agency provider who provides personal care aide services.
- (11) "Personal care aide services" means services provided that assist an individual with activities of daily living and instrumental activities of daily living including:
- (a) Bathing, dressing, grooming, nail care, hair care, oral hygiene, shaving, deodorant application, skin care, foot care, feeding, toileting, assisting with ambulation, positioning in bed, transferring, range-of-motion exercises, and monitoring intake and output;
 - (b) General homemaking activities including, but not limited to, meal preparation and cleanup, laundry, bed-making, dusting, vacuuming, and waste disposal;
 - (c) Household chores including, but not limited to, washing floors, windows, and walls and moving heavy items to provide safe access and exit;
 - (d) Paying bills and assisting with personal correspondence as directed by the individual; and
 - (e) Accompanying or transporting the individual to other transitions developmental disabilities waiver services, medical appointments, or other community services or running errands on behalf of the individual.
- (12) "Registered nurse" has the same meaning as in section 4723.01 of the Revised Code.
- (13) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- (14) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that shall include the items delineated in paragraph (E)(2) of this rule to validate payment for medicaid services.

- (15) "Waiver nursing services" has the same meaning as in rule 5123:2-9-59 of the Administrative Code.

(C) Provider qualifications

- (1) Personal care aide services shall be provided by an independent provider or an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.
- (2) Personal care aide services shall not be provided by a county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.
- (3) A personal care aide shall hold valid "American Red Cross" or equivalent certification in first aid which includes in-person training by a certified first aid instructor and a successful demonstration of what was learned in the course.
- (4) Prior to providing personal care aide services as an independent provider, a personal care aide shall:
 - (a) Obtain a certificate of completion of either a competency evaluation program or training and competency evaluation program approved or conducted by the Ohio department of health under section 3721.31 of the Revised Code, the medicare competency evaluation program for home health aides as specified in 42 C.F.R. 484 (as in effect on the effective date of this rule), or an equivalent training program that at a minimum addresses:
 - (i) Personal care aide services as defined in paragraph (B)(11) of this rule;
 - (ii) Basic home safety; and
 - (iii) Universal precautions for prevention of disease transmission including hand-washing, proper disposal of bodily waste, and handling of medical instruments that are sharp or may produce sharp pieces if broken.
 - (b) Complete training, in accordance with standards established by the department, in:

- (i) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and
 - (ii) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department.
- (5) Prior to providing personal care aide services as an employee of an agency provider, a personal care aide shall:
 - (a) Obtain a certificate of completion of either a competency evaluation program or training and competency evaluation program approved or conducted by the Ohio department of health under section 3721.31 of the Revised Code, the medicare competency evaluation program for home health aides as specified in 42 C.F.R. 484 (as in effect on the effective date of this rule);
 - (b) Complete training, in accordance with standards established by the department, in:
 - (i) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and
 - (ii) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department.
- (6) Beginning in the first year of providing personal care aide services and during each year thereafter, each personal care aide shall annually complete at least twelve hours of training, excluding agency provider/program-specific orientation or training, that enhances his or her skills and competencies relevant to his or her job responsibilities.
 - (a) The training shall address:
 - (i) The provisions governing rights of individuals as set forth in sections 5123.62 to 5123.64 of the Revised Code; and
 - (ii) The requirements of rule 5123:2-17-02 of the Administrative Code

relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department since the previous year's training.

- (b) Additional training topics that may be addressed include, but are not limited to, health and safety, cardiopulmonary resuscitation, emergency preparedness, communication skills, aging sensitivity, developmental stages, nutrition, transfer techniques, specific diseases, and mental health issues.

(D) Requirements for service delivery

- (1) Personal care aide services shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (F) of rule 5123:2-9-50 of the Administrative Code.
- (2) A provider of personal care aide services shall be identified as the provider and have specified in the individual service plan the number of hours for which the provider is authorized to furnish personal care aide services. A provider that cannot perform instrumental activities of daily living shall notify the department of the service limitations prior to inclusion on the individual service plan.
- (3) Personal care aides shall comply with the individual's specific personal care aide services instructions and perform a return demonstration upon request of the individual or service and support administrator.
- (4) Personal care aides may provide services for no more than three individuals in a group setting during a face-to-face visit.
- (5) A personal care aide providing personal care aide services as an employee of a medicare-certified or otherwise accredited home health agency provider shall receive supervision from a registered nurse or a licensed practical nurse working at the direction of a registered nurse in accordance with section 4723.01 of the Revised Code. The supervising registered nurse or licensed practical nurse working at the direction of the registered nurse shall:
 - (a) Conduct a face-to-face visit with the individual at the individual's home to explain the expected activities of the personal care aide and to identify the individual's personal care aide services needs.
 - (b) Conduct a face-to-face visit with the individual at the individual's home at

least once every sixty days while the personal care aide is present and providing care to evaluate the provision of personal care aide services and the individual's satisfaction with care delivery and personal care aide performance. The visit shall be recorded in service documentation.

- (c) Discuss the evaluation of personal care aide services with the individual's service and support administrator.
- (6) Personal care aides shall not administer prescribed or over-the-counter medications to an individual, but may, unless otherwise prohibited by the provider's certification or accreditation status, pursuant to paragraph (C) of rule 4723-13-02 of the Administrative Code, help an individual self-administer medications by:
- (a) Reminding the individual when to take the medication and observing to ensure the individual follows the directions on the container;
 - (b) Assisting the individual by taking the medication in its container from where it is stored and handing the container to the individual;
 - (c) Opening the container for an individual who is physically unable to open the container;
 - (d) Assisting an individual who is physically-impaired, but mentally alert, in removing oral or topical medication from the container and in taking or applying the medication; and
 - (e) Assisting an individual who is physically unable to place a dose of medication in his or her mouth without spilling or dropping it by placing the dose in another container and placing that container to the mouth of the individual.

(E) Documentation of services

- (1) Providers of personal care aide services shall maintain service documentation for each individual served in a manner that protects the confidentiality of the individual's records. An agency provider shall maintain service documentation at the provider's place of business. An independent provider shall maintain service documentation at the provider's place of business and maintain a copy of service documentation at the individual's residence. For purposes of this rule, the place of business must be a location other than the individual's residence.

- (2) Service documentation for personal care aide services shall include each of the following to validate payment for medicaid services:
- (a) Individual-identifying information including, but not limited to, name, address, age, date of birth, sex, race, marital status, significant phone numbers, and health insurance identification numbers;
 - (b) Individual's medical history;
 - (c) Name of individual's treating physician;
 - (d) A copy of all individual service plans in effect when the provider provides services;
 - (e) A copy of any advance directives including, but not limited to, a "do not resuscitate" order or medical power of attorney, if they exist;
 - (f) Documentation of drug and food interactions, allergies, and dietary restrictions;
 - (g) Documentation of tasks performed or not performed, arrival and departure times for each date of service, and the dated signatures of the personal care aide and individual or the individual's authorized representative, verifying the service delivery upon completion of service. The individual's or authorized representative's signature of choice shall be documented in the individual service plan and may include, but is not limited to, a handwritten signature, initials, a stamp or mark, or an electronic signature;
 - (h) Progress notes signed and dated by the personal care aide, documenting all communications with the service and support administrator, treating physician, and other members of the interdisciplinary team and documenting any out-of-the-ordinary events occurring during the visit as well as the general condition of the individual; and
 - (i) A discharge summary that includes information regarding progress made toward goal achievement and indicates any recommended follow-ups or referrals that is signed and dated by the departing independent provider or the registered nurse supervising a personal care aide employed by an agency provider, at the point the personal care aide is no longer going to provide services to the individual or when the individual no longer

needs personal care aide services.

(F) Payment standards

- (1) Billing units, service codes, and payment rates for personal care aide services are contained in the appendix to this rule.
- (2) Providers shall submit claims for payment for personal care aide services to the Ohio department of medicaid in accordance with rule 5160-41-22 of the Administrative Code.
- (3) Services defined in paragraph (B)(11) of this rule may be reimbursed as waiver nursing services when provided incidental to waiver nursing services performed during an authorized waiver nursing services visit unless the individual service plan states that services defined in paragraph (B)(11) of this rule are to be reimbursed as personal care aide services, in which case, the services shall not be billed as waiver nursing services.

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