

TO BE RESCINDED

5160-3-05 **Level of care definitions.**

(A) This rule contains the definitions used in the process of making a determination of an individual's level of care. The definitions in this rule apply unless a term is otherwise defined in a specific rule.

(B) Definitions.

(1) "Active Treatment" means a continuous treatment program including aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services for individuals with mental retardation and/or other developmental disabilities that are directed toward the following:

- (a) The acquisition of the behaviors necessary for the individual to function with as much self determination and independence as possible; and
- (b) The prevention or deceleration of regression or loss of current optimal functional status.

(2) "Activity of daily living (ADL)" means a personal or self-care task that enables an individual to meet basic life needs. For purposes of this rule, the term "ADL" includes the following defined activities:

- (a) "Bathing" means the ability of an individual to cleanse one's body by showering, tub, or sponge bath, or any other generally accepted method.
- (b) "Dressing" means the ability of an individual to complete the activities necessary to dress oneself and includes the following two components:
 - (i) Putting on and taking off an item of clothing or prosthesis; and
 - (ii) Fastening and unfastening an item of clothing or prosthesis.
- (c) "Eating" means the ability of an individual to feed oneself. Eating includes the processes of getting food into one's mouth, chewing, and swallowing, and/or the ability to use and self-manage a feeding tube.
- (d) "Grooming" means the ability of an individual to care for one's appearance and includes the following three components:
 - (i) Oral hygiene;

- (ii) Hair care; and
 - (iii) Nail care.
- (e) "Mobility" means the ability of an individual to use fine and gross motor skills to reposition or move oneself from place to place and includes the following three components:
 - (i) "Bed mobility" means the ability of an individual to move to or from a lying position, turn from side to side, or otherwise position the body while in bed or alternative sleep furniture;
 - (ii) "Locomotion" means the ability of an individual to move between locations by ambulation or by other means; and
 - (iii) "Transfer" means the ability of an individual to move between surfaces, including but not limited to, to and from a bed, chair, wheelchair, or standing position.
- (f) "Toileting" means the ability of an individual to complete the activities necessary to eliminate and dispose of bodily waste and includes the following four components:
 - (i) Using a commode, bedpan, or urinal;
 - (ii) Changing incontinence supplies or feminine hygiene products;
 - (iii) Cleansing self; and
 - (iv) Managing an ostomy or catheter.
- (3) "Adverse level of care determination" means a determination that an individual does not meet the criteria for a specific level of care.
- (4) "Alternative form" means a form that is used in place of and contains all of the data elements of, the JFS 03697, "Level of Care Assessment" (rev. 4/2003) to request a level of care determination from the Ohio department of job and family services (ODJFS) or its designee.
- (5) "Assistance" means the hands-on provision of help in the initiation and/or completion of a task.
- (6) "Authorized representative" has the same meaning as in rule 5101:1-37-01 of the Administrative Code.

- (7) "CBDD" means a county board of developmental disabilities as established under Chapter 5126. of the Revised Code.
- (8) "Current diagnoses" means a written medical determination by the individual's attending physician, whose scope of practice includes diagnosis, listing those diagnosed conditions that currently impact the individual's health and functional abilities.
- (9) "Delayed face-to-face visit" means an in-person visit that occurs within a specified period of time after a desk review has been conducted that includes the elements of a long-term care consultation, in accordance with Chapter 173-43 of the Administrative Code, for the purposes of exploring home and community-based services (HCBS) options and making referrals to the individual as appropriate.
- (10) "Desk review" means a level of care determination process that is not conducted in person.
- (11) "Developmental delay" means that an individual age birth through five has not achieved developmental milestones as expected for the individual's chronological age as measured, documented, and determined by qualified professionals using generally accepted diagnostic instruments or procedures.
- (12) "Face-to-face" means an in-person level of care assessment and determination process with the individual for the purposes of exploring nursing facility services or HCBS options and making referrals to the individual as appropriate, that is not conducted by a desk review only.
- (13) "Habilitation" in accordance with 42 U.S.C. 1396n(c)(5) as in effect December 27, 2005, means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.
- (14) "ICF-MR" means an intermediate care facility for persons with mental retardation.
- (15) "ICF-MR-based level of care" means the levels of care as described in rules 5101:3-3-07, 5101:3-3-15.3, and 5101:3-3-15.5 of the Administrative Code.
- (16) "Individual" means a medicaid recipient or person with pending medicaid eligibility.

- (17) "Instrumental activity of daily living (IADL)" means the ability of an individual to complete community living skills. For the purposes of this rule, the term "IADL" includes the following defined activities:
- (a) "Community access " means the ability of an individual to use available community services and supports to meet one's needs and includes the following three components:
- (i) "Accessing transportation" means the ability to get and use transportation.
- (ii) "Handling finances" means the ability of an individual to manage one's money and does not include transportation. Handling finances includes all of the following:
- (a) Knowing where money is;
- (b) Knowing how to get money;
- (c) Paying bills; and
- (d) Knowing how to get and use benefits and services, including but not limited to:
- (i) Health benefits and insurance;
- (ii) Social benefits; and
- (iii) Home utilities.
- (iii) "Telephoning" means the ability to make and answer telephone calls or use technology to connect to community services and supports.
- (b) "Environmental management" means the ability of an individual to maintain the living arrangement in a manner that ensures the health and safety of the individual and includes the following three components:
- (i) "Heavy chores" means the ability to move heavy furniture and appliances for cleaning, turn mattresses, and wash windows and walls; and
- (ii) "House cleaning" means the ability to make beds, clean the bathroom, sweep and mop floors, dust, clean and store dishes, pick up clutter, and take out trash;

- (iii) "Yard work and/or maintenance" means the ability to care for the lawn, rake leaves, shovel snow, complete minor home repairs, and paint.
 - (c) "Meal preparation" means the ability of an individual to prepare or cook food for oneself.
 - (d) "Personal laundry" means the ability of an individual to wash and dry one's clothing and household items by machine or by hand.
 - (e) "Shopping" means the ability to obtain or purchase one's necessary items. Necessary items include, but are not limited to, groceries, clothing, and household items. Shopping does not include handling finances or accessing transportation.
- (18) "Less than twenty-four hour support" means that an individual requires the presence of another person, or the presence of a remote monitoring device that does not require the individual to initiate a response, during a portion of a twenty-four hour period of time.
- (19) "Level of care determination" means an assessment and evaluation by ODJFS or its designee of an individual's physical, mental, social, and emotional status, using the processes described in rules 5101:3-3-15, 5101:3-3-15.3, and 5101:3-3-15.5 of the Administrative Code, to compare the criteria for all of the possible levels of care as described in rules 5101:3-3-06 to 5101:3-3-08 of the Administrative Code, and make a decision about whether an individual meets the criteria for a level of care.
- (20) "Level of care validation" means the verification process for ODJFS or its designee to review and enter an individual's current level of care in the electronic records of the individual that are maintained by ODJFS.
- (21) "Long-term services and supports" means institutional or community-based medical, health, psycho-social, habilitative, rehabilitative, or personal care services that may be provided to medicaid-eligible individuals.
- (22) "Major life area" has the same meaning as in rule 5101:3-3-07 of the Administrative Code.
- (23) "Manifested" means a condition is diagnosed and interferes with the individual's ability to develop or maintain functioning in at least one major life area.
- (24) "Medication administration" means the ability of an individual to prepare and self-administer all forms of over-the-counter and prescription medication.

- (25) "Need" means the inability of an individual to complete a necessary and applicable task independently, safely, and consistently. An individual does not have a need when:
- (a) The individual is not willing to complete a task or does not have the choice to complete a task.
 - (b) The task can be completed with the use of available assistive devices and accommodations.
- (26) "Nursing facility (NF)" has the same meaning as in section 5111.20 of the Revised Code. A facility that has submitted an application packet for medicaid certification to ODJFS is considered to be in the process of obtaining its initial medicaid certification by the Ohio department of health and shall be treated as a NF for the purposes of this rule.
- (27) "NF-based level of care" means the intermediate and skilled levels of care, as described in rule 5101:3-3-08 of the Administrative Code.
- (28) "NF-based level of care program" means a NF, a home and community-based services medicaid waiver that requires a NF-based level of care, or other medicaid program that requires a NF-based level of care.
- (29) "PASRR" means the preadmission screening and resident review requirements mandated by section 1919(e)(7) of the Social Security Act and implemented in accordance with rules 5101:3-3-14, 5101:3-3-15.1, 5101:3-3-15.2 and 5122-21-03 and 5123:2-14-01 of the Administrative Code.
- (30) "Physician" means a person licensed under Chapter 4731. of the Revised Code or licensed in another state as defined by applicable law, to practice medicine and surgery or osteopathic medicine and surgery.
- (31) "Psychiatrist" means a physician licensed under Chapter 4731. of the Revised Code or licensed in another state as defined by applicable law, to practice psychiatry.
- (32) "Psychologist" means, a person licensed in Ohio as a psychologist or school psychologist, or licensed in another state as a psychologist as defined by applicable law.
- (33) The terms "psychologist," "the practice of psychology," "psychological procedures," "school psychologist," "practice of school psychology," "licensed psychologist," "licensed school psychologist," and "certificated school

psychologist" have the same meanings as in section 4732.01 of the Revised Code.

- (34) "Skilled nursing services" means specific tasks that must, in accordance with Chapter 4723. of the Revised Code, be provided by a licensed practical nurse (LPN) at the direction of a registered nurse or by a registered nurse directly.
- (35) "Skilled rehabilitation services" means specific tasks that must, in accordance with Title 47 of the Revised Code, be provided directly by a licensed or other appropriately certified technical or professional health care personnel.
- (36) "Sponsor" means an adult relative, friend, or guardian of an individual who has an interest in or responsibility for the individual's welfare.
- (37) "Substantial functional limitation" means the inability of an individual to independently, adequately, safely, and consistently perform age-appropriate tasks as associated with the major life areas and as referenced in paragraph (B) (4) of this rule, without undue effort and within a reasonable period of time. An individual who has access to and is able to perform the tasks independently, adequately, safely, and consistently with the use of adaptive equipment or assistive devices is not considered to have a substantial functional limitation.
- (38) "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.
- (39) "Twenty-four hour support" means that an individual requires the continuous presence of another person throughout the course of the entire day and night during a twenty-four hour period of time.
- (40) "Unstable medical condition" means clinical signs and symptoms are present in an individual and a physician has determined that:
 - (a) The individual's signs and symptoms are outside of the normal range for that individual;
 - (b) The individual's signs and symptoms require extensive monitoring and ongoing evaluation of the individual's status and care and there are supporting diagnostic or ancillary testing reports that justify the need for frequent monitoring or adjustment of the treatment regimen;

- (c) Changes in the individual's medical condition are uncontrollable or unpredictable and may require immediate interventions; and
- (d) A licensed health professional must provide ongoing assessments and evaluations of the individual that will result in adjustments to the treatment regimen as medically necessary. The adjustments to the treatment regimen must happen at least monthly, and the designated licensed health professional must document that the medical interventions are medically necessary.

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