

5160-44-17

Nursing facility-based level of care home and community-based services programs: out-of-home respite services.

(A) "Out-of-home respite services" are services delivered to an individual in an out-of-home setting to allow respite for caregivers normally providing care. The service shall include an overnight stay.

(1) An out-of-home respite provider shall make available the following:

(a) Waiver nursing services as set forth in rule 5160-44-22 of the Administrative Code;

(b) Personal care services as set forth in rule 5160-46-04 of the Administrative Code if the individual is enrolled on an Ohio department of medicaid (ODM) -administered waiver, or rule 173-39-02.11 of the Administrative Code if the individual is enrolled in the PASSPORT program administered by the Ohio department of aging (ODA); and

(c) Three meals per day that meet the individual's dietary requirements.

(2) All services set forth in paragraph (A)(1) of this rule delivered during the provision of out-of-home respite services shall not be reimbursed as separate services.

(B) To qualify for submitting claims, providers of out-of-home respite services shall:

(1) Comply with all applicable rules set forth in Chapter 5160-44 of the Administrative Code, and:

(a) Chapters 5160-45, and as appropriate, either 5160-46 or 5160-58 of the Administrative Code, if the individual is enrolled on an ODM-administered waiver program; or

(b) Chapter 173-39 of the Administrative Code, if the individual is enrolled in the PASSPORT program.

(2) Be either:

(a) An intermediate care facility for individuals with an intellectual disability (ICF-IID) that has an active medicaid provider agreement in accordance with sections 5124.06 and 5124.07 of the Revised Code; or

(b) A nursing facility (NF) certified in accordance with rule 5160-3-02.3 of the Administrative Code; or

(c) Another licensed setting approved by ODM or certified by ODA.

(C) All providers of out-of-home respite shall:

- (1) Provide for coverage of an individual's loss due to theft, property damage and/or personal injury; and maintain a written procedure identifying the steps an individual takes to file a liability claim. Upon request, the provider shall verify their coverage with ODM, ODA or their designee.
- (2) Maintain evidence of non-licensed staff's completion of twelve hours of in-service training within a twelve-month period, excluding agency and program-specific orientation for every employee with in-person contact with individuals. In-service training shall be initiated immediately after the non-licensed direct care staff's first anniversary of employment with the provider, and shall be completed annually thereafter.
- (3) Ensure any waiver nursing services provided are within the nurse's scope of practice as set forth in rule 5160-44-22 of the Administrative Code.
- (4) Provide task-based instruction to direct care staff providing personal care services as defined in rule 5160-46-04 of the Administrative Code, or rule 173-39-02.11 of the Administrative Code, as applicable.

(D) Providers of out-of-home respite services shall maintain a clinical record at their place of business for each individual served in accordance with the requirements set forth in rule 5160-44-31 of the Administrative Code.

- (1) Storage shall protect the confidentiality of these records.
- (2) Each clinical record shall include the following:
 - (a) Identifying information, including but not limited to name, address, date of birth, gender/gender identify, race, significant phone numbers and health insurance identification numbers of the individual.
 - (b) Information regarding medical diagnosis (es), treatment(s) and preferences.
 - (c) The individual's medication profile and medication administration record, as applicable.
 - (d) The individual's treatment administration record, as applicable.
 - (e) The name and contact information for the individual's primary care physician(s).

- (f) The name and current contact information for the individual's parent/guardian/authorized representative and/or emergency contact.
 - (g) All known drug and food interactions, allergies and dietary needs, preferences and/or restrictions.
 - (h) A copy of the initial and all subsequent person-centered services plans.
 - (i) A copy of any advance directives including, but not limited to, a do-not-resuscitate order, or medical power of attorney, if they are provided.
 - (j) Documentation verifying the date of out-of-home respite service delivery, including tasks performed or not performed.
- (3) If the individual is receiving waiver nursing services pursuant to paragraph (A)(1)(a) of this rule, the clinical record shall also include the following:
- (a) A copy of the initial and all subsequent plans of care, specifying the type, frequency, scope and duration of the nursing services being provided. When services are provided by a licensed practical nurse (LPN) at the direction of a registered nurse (RN), the clinical records shall include documentation that the RN has reviewed the plans of care with the LPN. The plan of care shall be recertified by the primary care physician at least every sixty days, or more frequently if there is a significant change in the individual's condition.
 - (b) Documentation of any verbal orders given by the primary care physician to the nurse. The nurse shall document, in writing, the physician's orders, the date and time the orders were given, and sign the entry in the clinical record. The nurse shall subsequently secure documentation of the verbal orders, signed and dated by the primary care physician.
 - (c) All communications with the individual, case manager, RN supervisor (if one exists) primary care physician and other members of the individual's team.

(E) Notwithstanding any provisions to the contrary in this rule, during the COVID-19 state of emergency the following apply:

- (1) The ODM-approved and ODA-certified out-of-home respite provider settings in paragraph (B)(2)(c) of this rule do not have to be licensed.
- (2) ODM and ODA are authorized to deem any provider approved by ODM or certified by ODA or the Ohio department of developmental disabilities

(DODD) to provide waiver services as having satisfied the requirements for approval by ODM or certification by ODA for the same or similar services.

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CERTIFIED ELECTRONICALLY

Certification

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Date

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