

173-39-01

ODA provider certification: introduction and definitions.**(A) Introduction:**

- (1) This chapter establishes the certification requirements for providers who furnish services to individuals through an ODA-administered medicaid waiver program or the state-funded components of the assisted living or PASSPORT programs; the minimum requirements for furnishing services through those programs; disciplinary action against providers who do not comply with the minimum requirements; and appeal hearings for providers receiving disciplinary action.
- (2) Rule 5160-58-04 of the Administrative Code requires providers to comply with many of the minimum requirements for furnishing services in this chapter when the provider furnishes those services to individuals in the mycare Ohio program.
- (3) If a provider furnishes services to individuals through a medicaid waiver program and also furnishes services to individuals by using Older Americans Act funds, the provider shall also comply with Chapter 173-3 of the Administrative Code. If a provider furnishes services to individuals through a medicaid waiver program and also furnishes nutrition services to individuals by using Older Americans Act funds, the provider shall also comply with Chapters 173-3 and 173-4 of the Administrative Code.

(B) Definitions for this chapter:

- (1) "Activity of daily living" ("ADL") has the same meaning as in rule 5160-3-05 of the Administrative Code.
- (2) "Activity plan" means a description of the interventions and the dates and times that the provider will furnish the interventions.
- (3) "Assistance with self-administration of medication" has the same meaning as in as in paragraph (C) of rule 4723-13-02 of the Administrative Code when the assistance is furnished by an unlicensed person.
- (4) "Caregiver" means a relative, friend, or significant other who voluntarily furnishes assistance to the individual and is responsible for the individual's care on a continuing basis.
- (5) "Case manager" means the registered nurse, licensed social worker, or licensed independent social worker that ODA's designee employs to plan, coordinate, monitor, evaluate, and authorize services for ODA-administered programs that require provider certification under this chapter.
- (6) "CDJFS" means "county department of job and family services."

- (7) "Certification" means ODA's approval of a provider to furnish one or more of the services that this chapter regulates.
- (8) "Consumer" has the same meaning as "individual."
- (9) "Incident" means an alleged, suspected, or actual event that is not consistent with the routine care of, and/or service delivery to, an individual. Incidents include all of the following:
- (a) Abuse: the injury, confinement, control, intimidation or punishment of an individual by another person that has resulted, or could reasonably be expected to result, in physical harm, pain, fear or mental anguish. Abuse includes physical, emotional, verbal and/or sexual abuse, and use of restraint, seclusion or restrictive intervention that results in, or could reasonably be expected to result in, physical harm, pain, fear or mental anguish to the individual.
 - (b) Neglect: when there is a duty to do so, the failure to provide goods, services and/or treatment necessary to assure the health and welfare of an individual.
 - (c) Exploitation: the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.
 - (d) Misappropriation: depriving, defrauding or otherwise obtaining the money, or real or personal property (including medication) of an individual by any means prohibited by law.
 - (e) Death of an individual.
 - (f) Hospitalization or emergency department visit (including observation) as a result of any of the following:
 - (i) Accident, injury, or fall.
 - (ii) Injury or illness of an unknown cause or origin.
 - (iii) Recurrence of an illness or medical condition within seven calendar days of the individual's discharge from a hospital.
 - (g) Unauthorized use of restraint, seclusion and/or restrictive intervention that does not result in, or cannot reasonably be expected to result in, injury to the individual.
 - (h) An unexpected crisis in the individual's family or environment that results in an inability to assure the individual's health and welfare in his or her

primary place of residence.

(i) Inappropriate service delivery including any of the following:

(i) A provider's violation of the requirements for every provider in rule 173-39-02 of the Administrative Code.

(ii) Services provided to the individual that are beyond the provider's scope of practice.

(iii) Services delivered to the individual without, or not in accordance with, physician's orders.

(iv) Medication administration errors involving the individual.

(j) Actions on the part of the individual that place the health and welfare of the individual or others at risk including any of the following:

(i) The individual cannot be located.

(ii) Activities that involve law enforcement.

(iii) Misuse of medications.

(iv) Use of illegal substances.

(10) "Individual" means an individual who receives services as an enrollee in ODA-administered programs that require provider certification under this chapter.

(11) "Individual's signature" means the individual's signature or that of the individual's caregiver, which may include a handwritten signature; initials; stamp or mark; or electronic signature that represents the individual's acknowledgment, including acknowledgment that he or she received a service. ODA's designee documents the individual's signature of choice (i.e., handwritten, initials, stamp or mark, or electronic) in the individual's record and communicates it to the provider.

(12) "Instrumental activity of daily living" ("IADL") has the same meaning as in rule 5160-3-05 of the Administrative Code.

(13) "Licensed practical nurse" ("LPN") has the same meaning as in section 4723.01 of the Revised Code.

(14) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

- (15) "ODA" means "the Ohio department of aging."
- (16) "ODA's designee" is an entity to which ODA delegates one or more of its administrative duties. ODA's current designees include the area agencies on aging that ODA lists in rule 173-2-04 of the Administrative Code and "Catholic Social Services of the Miami Valley."
- (17) "ODM" means "the Ohio department of medicaid."
- (18) "Older Americans Act" has the same meaning as in rule 173-3-01 of the Administrative Code.
- (19) "Plan of treatment" means the orders of a physician or any other healthcare professional whose scope of practice includes making plans of treatment.
- (20) "Provider" means a person or entity that furnishes a service under this chapter. There are five types of providers:
- (a) "Agency provider" means a legally-organized entity that employs staff.
 - (b) "Assisted living provider" means a licensed residential care facility.
 - (c) "Participant-directed individual provider" ("consumer-directed individual provider") means a person that an individual (participant) directly employs and supervises to furnish a choices home care attendant service (CHCAS).
 - (d) "Participant-directed personal care provider" ("consumer-directed personal care provider") means a person that an individual (participant) directly employs and supervises to furnish personal care.
 - (e) "Non-agency provider" (i.e., "self-employed provider") means a legally-organized entity that is owned and controlled by one person and that does not employ a staff.
- (21) "Registered nurse" ("RN") has the same meaning as in section 4723.01 of the Revised Code.
- (22) "Service plan" means the written outline of the services that a case manager authorizes a provider to furnish to an individual, regardless of the funding source for those services.
- (23) "Services" has the same meaning as "community-based long-term care services" in section 173.14 of the Revised Code.
- (24) "Significant change" is a variation in the health, care, or needs of an individual

that warrants further evaluation to determine if changes to the type, amount, or scope of services are needed. Significant changes include differences in health status, caregiver status, residence/location of service delivery, and service delivery that result in the individual not receiving waiver services for thirty days.

- (25) "Vocational program" means a planned series, or a sequence of courses or modules, that incorporate challenging, academic education and rigorous, performance-based training to prepare participants for success in a particular health care career or occupation.

Replaces: 173-39-01

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.391, 173.52, 173.522, 173.54, 173.543
Rule Amplifies: 173.39, 173.391, 173.52, 173.522, 173.54, 173.543
Prior Effective Dates: 03/31/2006, 05/07/2009, 10/16/2009, 08/30/2010, 03/17/2011, 07/01/2014