

## TO BE RESCINDED

5101:3-12-05

**Eligible providers of Ohio home care services.**

(A) The home care services that an eligible provider may render are dependent on the provider type and category of service assigned to the provider by the Ohio department of job and family services (ODJFS) or its designee. All eligible providers shall maintain documentation of their compliance with the requirements of the Ohio home care program. Upon request, they must make available to ODJFS and/or its designee all such documentation.

(B) Provider type: medicare-certified home health agency

(1) Any entity, agency or organization that has and maintains medicare certification as a home health agency is eligible to participate in the medicaid program as a medicare-certified home health agency upon the execution of a medicaid provider agreement. The entity, agency or organization must provide services in accordance with the medicare conditions of participation as set forth in 42 C.F.R. 484 (2005).

(2) A medicare-certified home health agency may provide the following services:

(a) Intermittent nursing visits to consumers on the core benefit package, and intermittent and continuous care nursing visits to consumers on the core plus or ODJFS-administered home and community-based services (HCBS) waiver benefit packages.

(b) Intermittent daily living visits to consumers on the core or core plus benefit package, and intermittent and continuous daily living visits to consumers on the ODJFS-administered HCBS waiver benefit packages.

(c) Medically necessary skilled therapy services to consumers on the core, core plus or ODJFS-administered HCBS waiver benefit packages.

(C) Provider type: other accredited home health agency

(1) Any entity, agency or organization that has and maintains joint commission on accreditation of healthcare organizations (JCAHO) accreditation or community health accreditation program (CHAP) accreditation for the provision of both home health services and personal care and support services is eligible to participate in the medicaid program as an other accredited home health agency upon the execution of a medicaid provider agreement.

- (2) An other accredited home health agency may provide the following services:
- (a) Continuous care nursing visits to consumers on the core plus benefit package when nursing is the only service required.
  - (b) Intermittent and continuous care nursing visits to consumers on the ODJFS-administered HCBS waiver benefit package.
  - (c) Intermittent and continuous daily living services to consumers on the ODJFS-administered HCBS waiver benefit package.
- (D) Any entity, agency or organization identified in paragraphs (B) and (C) of this rule must agree to comply with the following requirements:
- (1) At least one representative will attend all required ODJFS-sponsored provider training sessions. The representative in attendance should be appropriate in terms of the attendee's job responsibilities within the organization and the topic of the training session (e.g., for a training session on quality assurance, the attendee should have some direct or indirect responsibility in the development or implementation of the organization's quality assurance program).
  - (2) When the plan of care and/or all services plan includes the provision of both nursing and daily living services, the provider will accept a consumer only if it provides both services directly or under arrangements.
  - (3) The provider has policies in place that shall assure:
    - (a) Consumers will receive home care services in accordance with the plan of care as scheduled and arranged with the consumer; and
    - (b) Back-up staff will be available to provide services when the provider's regularly scheduled staff cannot or do not meet their obligation to provide services to a consumer.
  - (4) Submit written notification to the consumer and ODJFS or its designee, if applicable, at least thirty calendar days before the last date of service if terminating the provision of home care services.
    - (a) Thirty-day advanced notification of service termination by a provider is

not required in cases when the consumer is hospitalized, is subject to unexpected or emergency placement in a long term care facility or expires.

- (b) The thirty-day advanced notification of service termination may be waived by ODJFS or its designee for other reasons on a case-by-case basis.

(E) Provider type: waiver independent daily living aide

- (1) Any individual who meets one or more of the minimum requirements set forth in paragraphs (E)(1)(a) to (E)(1)(c) of this rule is eligible to participate in the Ohio medicaid program as an independent daily living aide upon the execution of a medicaid provider agreement.
- (2) In order to have a provider agreement to deliver mental retardation and developmental disability (MR/DD) waiver services, the independent daily living aide must receive approval from the Ohio department of mental retardation and developmental disabilities (ODMR/DD) and meet the requirements set forth in paragraphs (E)(2)(b), (E)(2)(c), and (E)(2)(d) of this rule.
- (3) In order to have a provider agreement to deliver ODJFS-administered waiver services, the independent daily living aide must meet all the requirements in paragraph (E)(2) of this rule.
- (4) Independent daily living aides providing services to consumers through the consumer options identified in rule 5101:3-12-12 of the Administrative Code must certify that they shall:
  - (a) Not provide services to a family member as defined in paragraph (N) of rule 5101:3-12-01 of the Administrative Code or foster child(ren); and
  - (b) Successfully complete a criminal records check in accordance with the procedures set forth in rule 5101:3-12-26 of the Administrative Code; and
  - (c) Successfully complete the nurse aide competency evaluation program conducted by the Ohio department of health under section 3721.31 of the Revised Code; or
  - (d) Successfully complete and pass a home health aide competency

evaluation as specified in 42 C.F.R. 484 (2005).

(e) Be age eighteen or older at the time of application.

(f) Provide ODJFS or its designee with the name of the consumer who has chosen them to deliver services.

(5) A waiver independent daily living aide may provide daily living services to consumers on the ODJFS-administered HCBS waiver benefit package who elect to participate in the consumer options described in paragraphs (A)(4) and (A)(5) of rule 5101:3-12-12 of the Administrative Code.

(F) Provider type: waiver independent daily living non-aide

(1) Any individual who meets the minimum requirements set forth in paragraph (F)(2) of this rule is eligible to participate in the Ohio medicaid program as an independent daily living non-aide upon the execution of a medicaid provider agreement.

(a) In order to have a provider agreement to deliver MR/DD waiver services, the independent daily living aide must receive approval from ODMR/DD and meet the requirements set forth in paragraph (F)(2)(b) of this rule.

(b) In order to have a provider agreement to deliver ODJFS-administered waiver services, the independent daily living aide must meet all the requirements in paragraph (F)(2) of this rule.

(2) Independent daily living non-aides providing services to consumers through the consumer options program identified in rule 5101:3-12-12 of the Administrative Code must certify that they shall:

(a) Not provide services to a family member as defined in paragraph (N) of rule 5101:3-12-01 of the Administrative Code or foster child(ren); and

(b) Successfully complete a criminal records check in accordance with the procedures set forth in rule 5101:3-12-26 of the Administrative Code.

(c) Be age eighteen or older at the time of application.

(d) Provide ODJFS or its designee with the name of the consumer who has

chosen them to deliver services.

- (3) Individuals who are approved ODMR/DD providers of personal care, homemaker or chore services are eligible to enroll as ODJFS-administered HCBS waiver independent daily living non-aides as long as they are not eligible to enroll as provider types identified in paragraphs (B), (C) and (E) of this rule and meet the requirements described in paragraph (F)(2)(b) of this rule.
  - (4) A waiver independent daily living non-aide may provide the daily living services to consumers on the ODJFS-administered HCBS waiver benefit package who elect to participate in the consumer options described in paragraphs (A)(4) and (A)(5) of rule 5101:3-12-12 of the Administrative Code.
- (G) Providers described in paragraphs (E) and (F) of this rule must agree to comply with the following requirements:
- (1) All of the standards under the "patient rights" medicare condition of participation as found in 42 C.F.R. 484 (2005).
  - (2) Attend all required ODJFS-sponsored provider training sessions.
  - (3) Submit written notification to the consumer and ODJFS or its designee at least thirty calendar days before the last date of service if terminating the provision of home care services.
    - (a) Thirty-day advanced notification of service termination by a provider is not required in cases when the consumer is hospitalized, is subject to unexpected or emergency placement in a long term care facility or expires.
    - (b) The thirty-day advanced notification of service termination may be waived by ODJFS or its designee for other reasons on a case-by-case basis.
- (H) Provider type: independent home care nurse
- (1) Any individual who meets the minimum requirements set forth in paragraph (H)(2) of this rule is eligible to participate in the Ohio medicaid program as an independent home care nurse upon the execution of a medicaid provider agreement.

- (2) The minimum requirements for medicaid participation as an independent home care nurse are as follows:
- (a) Provider must be a registered nurse or licensed practical nurse under the supervision of a registered nurse practicing within the scope of his or her nursing license pursuant to Chapter 4723. of the Revised Code.
  - (b) Provider must successfully complete a criminal records check in accordance with the procedures set forth in rule 5101:3-12-26 of the Administrative Code.
  - (c) Provider must not use or disclose any information concerning a consumer, for any purpose not directly connected with the administration or provision of covered core home care services, except with the written consent of the consumer or other authorized representative.
  - (d) Provider must attend all required ODJFS-sponsored provider training sessions;
  - (e) Provider must submit written notification to the consumer and ODJFS or its designee at least thirty calendar days before the last date of service if terminating the provision of home care services.
    - (i) The thirty-day advanced notification of service termination by an independent home care nurse provider is not required in cases when the consumer is hospitalized, is subject to unexpected or emergency placement in a long term care facility, or expires.
    - (ii) The thirty-day advanced notification of service termination may be waived by ODJFS or its designee for other reasons on a case-by-case basis.
  - (f) Provider must comply with the following conditions of participation as found in 42 C.F.R. 484 (2005).
    - (i) Patients rights;
    - (ii) Acceptance of patients, plan of care, and medical supervision; and
    - (iii) Clinical records.

(g) Provider must not provide services to his or her family member as defined in paragraph (N) of rule 5101:3-12-01 of the Administrative Code, or foster child(ren).

(h) An independent home care nurse may provide the following services:

(i) Continuous care nursing visits to consumers enrolled on the core plus benefit package when nursing is the only service required.

(ii) Intermittent and continuous care nursing visits to consumers enrolled on the ODJFS administered HCBS waiver.

(I) Provider type: ODJFS-administered HCBS waiver provider

(1) Any entity or organization that meets the requirements specified in paragraphs (I)(2) and (I)(3) of this rule is eligible to participate in the Ohio medicaid program as an ODJFS-administered HCBS waiver provider upon the execution of a medicaid provider agreement.

(2) Minimum requirements for participation as an ODJFS-administered HCBS waiver provider are:

(a) The entity or organization is not eligible to enroll as either a medicare-certified home health agency or other accredited home health agency described in paragraphs (B) and (C) of this rule.

(b) The entity or organization has been determined by ODJFS or its designee to meet the criteria as set forth in this rule, to be eligible to provide at least one of the covered waiver services specified in rule 5101:3-12-07 of the Administrative Code;

(c) The entity or organization has agreed to:

(i) Refrain from using or disclosing any information concerning a consumer, for any purpose not directly connected with the administration or provision of covered core home care or ODJFS-administered waiver services, except with the written consent of the consumer or other authorized representative;

(ii) Have at least one representative attend all required

ODJFS-sponsored provider training sessions. The representative in attendance should be appropriate in terms of the attendee's job responsibilities within the organization and the topic of the training session (e.g., for a training session on quality assurance, the attendee should have some direct or indirect responsibility in the development or implementation of the organization's quality assurance program);

- (iii) Make available back-up staff to provide service when the entity's or organization's regularly scheduled staff cannot or do not meet their obligation to provide services to a consumer;
  - (iv) Submit written notification to the consumer, and ODJFS or its designee at least thirty calendar days before the last date of service if terminating the provision of home care services.
    - (a) Thirty-day advanced notification of service termination by a provider is not required in cases when the consumer is hospitalized, is subject to unexpected or emergency placement in a long term care facility, or expires.
    - (b) The thirty-day advanced notification of service termination may be waived by ODJFS or its designee for other reasons on a case-by-case basis.
  - (v) Procure and make available to ODJFS or its designee, upon request, all necessary licenses required by local, state and federal law, certifications, proof of insurance, special training or other credentials relating to qualifications.
  - (vi) Comply with all of the standards under the "patient rights" medicare condition of participation as found in 42 C.F.R. 484 (2005).
  - (vii) Have all employees who have in-person contact with consumers successfully complete a criminal records check in accordance with the procedures set forth rule 5101:3-12-25 of the Administrative Code.
- (3) In addition to the minimum requirements, the entity or organization must meet the following requirements to be eligible to provide specific ODJFS-administered HCBS waiver services as follows:



- (a) For center-based day health services, the entity or organization must certify that they meet the requirements set forth in paragraph (A)(5) of rule 5101:3-12-07 of the Administrative Code.
- (b) For home delivered meals, the entity or organization must have an appropriate food vendor's license, and certify that the requirements set forth in paragraph (B) of rule 5101:3-12-07 of the Administrative Code are met.
- (c) For home modifications, the entity or organization must certify that the requirements set forth in paragraph (C)(5) of rule 5101:3-12-07 of the Administrative Code are met.
- (d) For supplemental transportation services, the entity, agency, organization, or individual must certify that the requirements set forth in paragraph (D)(3) of rule 5101:3-12-07 of the Administrative Code are met; and
  - (i) For individuals to enroll as providers, the individual must have:
    - (a) A valid Ohio driver's license;
    - (b) Collision and liability insurance for each vehicle and driver used in the provision of supplemental transportation services; and
    - (c) A valid motor vehicle inspection from the Ohio highway patrol for each vehicle to be used in the provision of supplemental transportation services.
    - (d) Be age eighteen or older at the time of application.
  - (ii) For entities or organizations to enroll as providers, they must:
    - (a) Provide ODJFS with a current list of drivers and a copy of the Ohio driver's license for each driver;
    - (b) Possess collision and liability insurance for each vehicle and driver used in the provision of supplemental transportation services; and

- (c) Have valid motor vehicle inspection from the Ohio highway patrol for each vehicle to be used in the provision of supplemental transportation services.
  - (e) For out-of-home respite services, the entity or organization must be an intermediate care facility for the mentally retarded and/or developmentally disabled (ICF-MR), a nursing facility (NF) or an appropriate setting approved by ODJFS or its designee.
  - (f) For emergency response systems, the entity or organization must certify that the requirements set forth in paragraph (G)(3) of rule 5101:3-12-07 of the Administrative Code are met.
- (J) The following medicaid providers are eligible to provide limited Ohio home care services as specified in this paragraph if they have agreed to meet the requirements contained in paragraphs (I)(2)(c)(i) to (I)(2)(c)(vi) of this rule.
  - (1) Durable medical equipment (DME) providers are eligible to provide:
    - (a) Supplemental adaptive and assistive devices covered under the ODJFS-administered waiver benefit package if they certify that they meet the criteria set forth in paragraph (E) of rule 5101:3-12-07 of the Administrative Code; and
    - (b) Emergency response systems covered under the ODJFS-administered waiver benefit package if they certify that they meet the requirements set forth in paragraph (G) of rule 5101:3-12-07 of the Administrative Code.
  - (2) Ambulance and/or ambulette providers are eligible to provide supplemental transportation services covered under the ODJFS-administered waiver benefit package if they certify that they meet the requirements set forth in paragraph (D) of rule 5101:3-12-07 of the Administrative Code.
  - (3) Advanced practice nurse providers are eligible to provide nursing services covered under the core-plus and ODJFS-administered waiver benefit packages if they meet the requirements of paragraph (H)(2) of this rule.
  - (4) Public health clinics are eligible to provide home delivered meal services covered under the ODJFS-administered waiver benefit package if they have an appropriate food vendor's license and certify that they meet the

requirements set forth in paragraph (B) of rule 5101:3-12-07 of the Administrative Code.

- (5) All individuals and employees of entities and/or organizations identified in paragraphs (J)(1) to (J)(5) of this rule who have in-person contact with consumers for the provision of home care services must successfully complete a criminal records checks in accordance with the procedures set forth in rule 5101:3-12-25 or 5101:3-12-26 of the Administrative Code, as appropriate.
  
- (K) Medicare-certified home health agency and other accredited home health agency provider types may be eligible to also provide specific ODJFS-administered HCBS waiver services if they meet the requirements for the service as set forth in paragraphs (I)(3)(a) to (I)(3)(f) of this rule.

Effective:

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Certification

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Date

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