

## TO BE RESCINDED

**5123:2-9-32 Home and community-based services waivers - adult family living under the individual options waiver.****(A) Purpose**

This rule defines adult family living and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

**(B) Definitions**

- (1) "Adult" means an individual eighteen years of age or older.
- (2) "Adult family living" means personal care and support services provided to an adult by a caregiver who is related to and lives with the individual receiving the services. Adult family living is provided in conjunction with residing in the home and is part of the rhythm of life that naturally occurs when people live together as a family. Due to the environment provided by living together as a family, segregating these activities into discrete services is impractical. Examples of supports that may be provided as a component of adult family living include:
  - (a) Basic personal care and grooming, including bathing, care of the hair, and assistance with clothing.
  - (b) Assistance with bladder and/or bowel requirements or problems, including helping the individual to and from the bathroom or assisting the individual with bedpan routines.
  - (c) Assisting the individual with self-medication or provision of medication administration for prescribed medications and assisting the individual with, or performing, health care activities.
  - (d) Performing household services essential to the individual's health and comfort in the home (e.g., necessary changing of bed linens or rearranging of furniture to enable the individual to move about more easily in his or her home).
  - (e) Assessing, monitoring, and supervising the individual to ensure the individual's safety, health, and welfare.
  - (f) Light cleaning tasks in areas of the home used by the individual.

- (g) Preparation of a shopping list appropriate to the individual's dietary needs and financial circumstances, performance of grocery shopping activities as necessary, and preparation of meals.
  - (h) Personal laundry.
  - (i) Incidental neighborhood errands as necessary, including accompanying the individual to medical and other appropriate appointments and accompanying the individual for walks outside the home.
  - (j) Skill development to prevent the loss of skills and enhance skills that are already present that lead to greater independence and community integration.
- (3) "Agency provider" means an entity that employs persons for the purpose of providing services for which the entity must be certified under rules adopted by the department.
  - (4) "Community respite" has the same meaning as in rule 5123:2-9-22 of the Administrative Code.
  - (5) "County board" means a county board of developmental disabilities.
  - (6) "Department" means the Ohio department of developmental disabilities.
  - (7) "Funding range" means one of the dollar ranges contained in appendix A to rule 5123:2-9-06 of the Administrative Code to which individuals enrolled in the individual options waiver have been assigned for the purpose of funding services. The funding range applicable to an individual is determined by the score derived from the Ohio developmental disabilities profile that has been completed by a county board employee qualified to administer the tool.
  - (8) "Group size" means the number of individuals who are sharing services, regardless of the funding source for those services.
  - (9) "Homemaker/personal care" has the same meaning as in rule 5123:2-9-30 of the Administrative Code.
  - (10) "Independent provider" means a self-employed person who provides services for which he or she must be certified under rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.

- (11) "Individual" means a person with a developmental disability or for 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.
- (12) "Individual funding level" has the same meaning as in rule 5123:2-9-06 of the Administrative Code.
- (13) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (14) "Ohio developmental disabilities profile" means the standardized instrument utilized by the department to assess the relative needs and circumstances of an individual enrolled in the individual options waiver compared to others. The individual's responses are scored and the individual is linked to a funding range, which enables similarly situated individuals to access comparable waiver services paid in accordance with rules adopted by the department.
- (15) "Related to" means the caregiver is, by blood, marriage, or adoption, the individual's:
  - (a) Parent or stepparent;
  - (b) Sibling or stepsibling;
  - (c) Grandparent;
  - (d) Aunt, uncle, nephew, or niece;
  - (e) Cousin; or
  - (f) Child or stepchild.
- (16) "Residential respite" has the same meaning as in rule 5123:2-9-34 of the Administrative Code.
- (17) "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.
- (18) "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 paragraphs (F)(1) and (F)(2) of this rule, as applicable, to validate payment for medicaid services.

- (19) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date.

(C) Provider qualifications

- (1) Adult family living 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) Adult family living 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) An applicant seeking approval to provide adult family living shall complete and submit an application through the department's website (<http://dodd.ohio.gov/providers/becomeaprovider/pages/default.aspx>).
- (4) Failure of a certified provider to comply with this rule and rule 5123:2-2-01 of the Administrative Code may result in denial, suspension, or revocation of the provider's certification.
- (5) Failure of a licensed provider to comply with this rule and Chapter 5123:2-3 of the Administrative Code may result in denial, suspension, or revocation of the provider's license.

(D) Requirements for service delivery

- (1) Adult family living shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code.
- (2) The total number of persons with developmental disabilities living in a home in which an individual receives adult family living shall not exceed four.
- (3) A provider shall not provide both a residence and adult family living or other services to more than three persons with developmental disabilities living in a home unless the home is licensed under section 5123.19 of the Revised Code.

- (4) An independent provider of adult family living shall reside in the home where the services are delivered and that home shall be the provider's primary, legal residence.
- (5) An agency provider of adult family living shall employ or contract with a natural person to be the caregiver who shall reside in the home where the services are delivered and that home shall be the person's primary, legal residence. The person who is the caregiver shall be related to the individual receiving services.
- (6) Except as provided in paragraphs (E) and (G) of this rule, an individual who receives supports under the individual options waiver that meet the definition of adult family living is not eligible to receive homemaker/personal care.

(E) Payment standards

- (1) The billing units, service codes, and payment rates for adult family living are contained in appendix A to this rule. Payment rates include an adjustment based on the county cost-of-doing-business category. The cost-of-doing-business categories are contained in appendix B to this rule.
- (2) Individuals who receive adult family living shall choose either to have their services paid through a daily rate or a fifteen-minute rate.
  - (a) Daily rate option
    - (i) The daily rate shall be determined by an individual's Ohio developmental disabilities profile range and the county cost-of-doing-business category.
    - (ii) An individual who chooses the daily rate option shall not receive homemaker/personal care except as provided in paragraph (E)(2)(a)(iv) of this rule.
    - (iii) An individual who chooses the daily rate option may have more than one adult family living provider, however, only one provider may bill for adult family living on a given day.
    - (iv) An individual who chooses the daily rate option may receive homemaker/personal care only if the services are provided on a day when the individual's adult family living provider does not bill for adult family living and either of the following apply:

- (a) The services are provided outside the family living setting by a certified homemaker/personal care provider who is not related to the individual; or
  - (b) The services are provided as substitute coverage in the individual's family living setting or in a community setting agreed to by the individual, by a certified homemaker/personal care provider who is not related to the individual, in circumstances where the adult family living provider is temporarily unavailable to provide services.
- (v) Homemaker/personal care that meets the requirements of paragraph (E)(2)(a)(iv) of this rule is not considered adult family living and is not subject to the limitation in paragraph (E)(7) of this rule.
- (b) Fifteen-minute rate option
  - (i) The fifteen-minute rate provides flexibility to an individual who utilizes multiple adult family living providers on a regular basis or chooses to receive adult family living and homemaker/personal care on the same or different days.
  - (ii) Under the fifteen-minute rate, the maximum payment for adult family living and homemaker/personal care in a waiver eligibility span is subject to the limitation specified in paragraph (E)(7) of this rule.
- (3) The daily rate and the fifteen-minute rate shall be adjusted to reflect the group size as specified in appendix A to this rule.
- (4) The daily rate and the fifteen-minute rate shall not be billed on the same day.
- (5) An individual's service and support administrator shall explain the implications of the payment options (i.e., daily rate or fifteen-minute rate) to the individual. The individual's choice of payment option shall be identified in his or her individual service plan.
- (6) If an individual requests a change in his or her payment option, the individual's service and support administrator shall identify the change and its effective date in the individual service plan. The change to the individual service plan shall be made prior to implementing the change in the payment option.
- (7) Except as provided in paragraph (E)(2)(a)(iv) of this rule and regardless of which payment option an individual chooses or whether a change in payment option occurs, payment of an individual's adult family living and homemaker/personal

care for a waiver eligibility span shall not exceed an amount determined by multiplying the daily rate for adult family living by the number of days in the span.

- (8) Adult family living is subject to the funding ranges and individual funding levels as set forth in paragraph (C) of rule 5123:2-9-06 of the Administrative Code.
- (9) An individual who receives adult family living may request prior authorization in accordance with rule 5123:2-9-07 of the Administrative Code for waiver services other than adult family living. Prior authorization may not be requested for the purpose of increasing an adult family living provider's rate.
- (10) Payment for adult family living shall not include room and board.
- (11) Independent providers of adult family living shall not bill homemaker/personal care for services to individuals for whom they provide adult family living.
- (12) An individual who receives adult family living may receive residential respite or community respite under the individual options waiver because of an adult family living provider's short-term absence or need for relief. Adult family living shall not be billed during the period of time when residential respite or community respite is being provided.

(F) Documentation of services

- (1) Service documentation for the adult family living daily rate shall include each of the following to validate payment for medicaid services:
  - (a) Type of service.
  - (b) Date of service.
  - (c) Place of service.
  - (d) Name of individual receiving service.
  - (e) Medicaid identification number of individual receiving service.
  - (f) Name of provider.
  - (g) Provider identifier/contract number.
  - (h) Written or electronic signature of the person delivering the service, or initials of the person delivering the service if a signature and corresponding initials are on file with the provider.

- (i) Group size in which the service was provided.
  - (j) Description and details of the services delivered that directly relate to the services specified in the approved individual service plan as the services to be provided.
- (2) Service documentation for the adult family living fifteen-minute rate shall include the items delineated in paragraph (F)(1) of this rule and each of the following to validate payment for medicaid services:
- (a) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.
  - (b) Begin and end time of the delivered service.

(G) Applicability and exemptions

- (1) Except as provided in paragraphs (G)(2) and (G)(3) of this rule, this rule applies to any individual who receives supports under the individual options waiver that meet the definition of adult family living.
- (2) Individuals who, on July 15, 2011, were receiving homemaker/personal care under the individual options waiver that meets the definition of adult family living are not eligible to receive adult family living unless both the individual and the county board agree otherwise.
- (3) This rule does not apply to an individual for whom personal care and support services provided by a caregiver who is related to and lives with the individual constitute less than twenty per cent of his or her individual funding level.



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CERTIFIED ELECTRONICALLY

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Certification

08/21/2017

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Date

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