

5160-3-08

Criteria for nursing facility-based level of care.

~~(A) This rule describes the criteria for an individual to meet the nursing facility (NF)-based level of care. The NF-based level of care includes the intermediate and skilled levels of care. An individual is determined to meet the NF-based level of care when the individual meets the criteria as described in paragraphs (B) to (D) of this rule.~~

~~(B)~~(A) -The criteria for the intermediate level of care is met when:

(1) The individual's needs for long-term services and supports (LTSS), ~~as defined in rule 5101:3-3-05 of the Administrative Code,~~ exceed the criteria for the protective level of care, as described in paragraph ~~(B)(3)(A)(3)~~ of rule ~~5101:3-3-06~~5160-3-06 of the Administrative Code.;

(2) The individual's LTSS needs are less than the criteria for the skilled level of care, as described in paragraph ~~(B)(4)(C)~~ of this rule.;

(3) The individual's LTSS needs do not meet the criteria for the ~~ICF-MR-based~~developmental disabilities level of care, ~~as defined in rule 5101:3-3-05 of the Administrative Code,~~ or meets one of the following:

(a) The individual has been evaluated through an Ohio department of medicaid (ODM)-approved assessment tool and determined to have medical condition(s) or related need(s) necessitating an immediate need for support as determined by (ODM), or

(b) The individual receives a non-adverse level II pre-admission screening and resident review (PASRR) determination indicating the need for NF services; and

(4) -The individual ~~has a need for~~needs a minimum of one of the following:

(a) Assistance, ~~as defined in rule 5101:3-3-05 of the Administrative Code,~~ with the completion of a minimum of two activities of daily living (ADL), as defined in rule ~~5101:3-3-05~~5160-3-05 of the Administrative Code and as described in paragraph ~~(C)(B)~~ of this rule;

(b) -Assistance with the completion of a minimum of one ADL as described in paragraph ~~(C)(B)~~ of this rule, and assistance with medication administration, ~~as defined in rule 5101:3-3-05 of the Administrative Code;~~

(c) A minimum of one skilled nursing service or skilled rehabilitation service; ~~as defined in rule 5101:3-3-05 of the Administrative Code;~~ or

(d) Twenty-four hour support, ~~as defined in rule 5101:3-3-05 of the Administrative Code~~, in order to prevent harm due to a cognitive impairment, as diagnosed by a physician or other licensed health professional acting within his or her applicable scope of practice, as defined by law.

(e) If the individual is age seventeen years or younger, the age-appropriate need for assistance with items described in paragraphs (A)(4)(a) and (A)(4)(b) of this rule will be assessed in accordance with the ODM-approved assessment guide.

~~(C)(B)~~ For the purposes of meeting the criteria described in paragraph ~~(B)(4)~~(A)(4) of this rule, an individual age eighteen years or older ~~has a need in~~ who needs assistance with an ADL when~~needs~~:

(1) ~~The individual requires assistance~~ Assistance with mobility in at least one of the following three components:

- (a) Bed mobility;
- (b) Locomotion; or
- (c) Transfer.

(2) ~~The individual requires assistance~~ Assistance with bathing.

(3) ~~The individual requires assistance~~ Assistance with grooming in all of the following three components:

- (a) Oral hygiene;
- (b) Hair care; and
- (c) Nail care.

(4) ~~The individual requires assistance~~ Assistance with toileting in at least one of the following four components:

- (a) Using a commode, bedpan, or urinal;
- (b) Changing incontinence supplies or feminine hygiene products;
- (c) Cleansing self; or
- (d) Managing an ostomy or catheter.

- (5) ~~The individual requires assistance~~ Assistance with dressing in at least one of the following two components:
- (a) Putting on and taking off an item of clothing or prosthesis; or
 - (b) Fastening and unfastening an item of clothing or prosthesis.
- (6) ~~The individual requires assistance~~ Assistance with eating.
- ~~(D)(C)~~ -The criteria for the skilled level of care is met when:
- (1) The individual's LTSS needs exceed the criteria for the protective level of care, as described in paragraph ~~(B)(3)(A)(3)~~ of rule ~~5101:3-3-06~~5160-3-06 of the Administrative Code;
 - (2) The individual's LTSS needs exceed the criteria for the intermediate level of care as described in paragraph ~~(B)(4)(A)(4)~~ of this rule;
 - (3) The individual's LTSS needs exceed the criteria for the ~~ICF-MR-based~~ developmental disabilities level of care;
 - (4) The individual ~~requires~~needs a minimum of one of the following:
 - (a) ~~One skilled nursing service within the day on no less than seven days per week; or~~
 - (b) One skilled rehabilitation service within the day on no less than five days per week;and
 - (5) The individual has an unstable medical condition,~~as defined in rule 5101:3-3-05 of the Administrative Code.~~
- (D) When an individual has been previously determined to meet the criteria for the intermediate or skilled level of care and has been enrolled in a NF-based home and community-based services (HCBS) waiver and has maintained enrollment, failure to meet the criteria in paragraph (A)(3) of this rule will not be a sufficient reason alone to deny level of care at the annual reassessment.
- (E) ~~When an individual meets the criteria for a skilled level of care, as described in paragraph (D)(C) of this rule, the individual may request placement in an intermediate care facility for persons with mental retardation (ICF-MR) individuals with intellectual disabilities (ICF-IID) that provides services to individuals who have a skilled level of care. When an individual with a skilled level of care~~

requests placement in an ~~ICF-MR~~ ICF-IID ~~they will need to meet the criteria for the developmental disabilities level of care;~~ the following requirements apply:

- ~~(1) The individual may be determined to meet the criteria for the ICF-MR-based level of care; and~~
- ~~(2) The ICF-MR must provide written certification that the services provided in the facility are appropriate to meet the needs of an individual who meets the criteria for a skilled level of care.~~

Effective: 7/1/2025

Five Year Review (FYR) Dates: 1/14/2025 and 07/01/2030

CERTIFIED ELECTRONICALLY

Certification

06/18/2025

Date

Promulgated Under: 119.03

Statutory Authority: 5164.02

Rule Amplifies: 5162.03, 5164.02, 5165.04

Prior Effective Dates: 07/01/1980, 11/10/1983, 10/01/1993 (Emer.),
12/31/1993, 07/01/2008, 03/19/2012