

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.

~~(C)(B)~~ For the purposes of meeting the criteria described in paragraph ~~(B)(4)(A)(4)~~ of this rule, an individual ~~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:

Five Year Review (FYR) Dates: 1/14/2025

Certification

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