5160-46-04 Ohio home care waiver: definitions of the covered services and provider requirements and specifications.

This rule sets forth definitions of some services covered by the Ohio home care waiver. This rule also sets forth the provider requirements and specifications for the delivery of those Ohio home care waiver services. Providers are also subject to the conditions of participation set forth in rule 5160-44-31 of the Administrative Code. Services are reimbursed in accordance with rule 5160-46-06 of the Administrative Code.

(A) Personal care aide services.

(1) "Personal care aide services" are defined as services provided pursuant to the person-centered services plan that assist the individual with activities of daily living (ADL) and instrumental activities of daily living (IADL) needs. If the individual's person-centered services plan states that the service provided is to be personal care aide services, the service shall never be billed as a nursing service. If the provider cannot perform IADLs, the provider shall notify ODM or its designee, in writing, of the service limitations before inclusion on the individual's person-centered services plan. Personal care aide services include:

(a) Bathing, dressing, grooming, nail care, hair care, oral hygiene, shaving, deodorant application, skin care, foot care, feeding, toileting, assisting with ambulation, positioning in bed, transferring, range of motion exercises, and monitoring intake and output;

(b) General homemaking activities, including but not limited to: meal preparation and cleanup, laundry, bed-making, dusting, vacuuming, washing floors and waste disposal;

(c) Paying bills and assisting with personal correspondence as directed by the individual; and

(d) Accompanying or transporting the individual to Ohio home care waiver services, medical appointments, other community services, or running errands on behalf of that individual.

(2) Personal care aide services do not include tasks performed, or services provided as part of the home maintenance and chore services set forth in rule 5160-44-12 of the Administrative Code.

(3) Personal care aide services do not include services performed in excess of the number of hours approved pursuant to the person-centered services plan.

(4) Personal care aides shall not administer prescribed or over-the-counter medications to the individual, but may, unless otherwise prohibited by the provider's certification or accreditation status, pursuant to paragraph (C) of rule 4723-13-02 of the Administrative Code, help the individual self-administer medications by:

(a) Reminding the individual when to take the medication, and observing to ensure the individual follows the directions on the container;

(b) Assisting the individual by taking the medication in its container from where it is stored and handing the container to the individual;

(c) Opening the container for an individual who is physically unable to open the container;

(d) Assisting an individual who is physically-impaired, but mentally alert, in removing oral or topical medication from the container and in taking or applying the medication; and

(e) Assisting an individual who is physically unable to place a dose of medication in his or her mouth without spilling or dropping it by placing the dose in another container and placing that container to the mouth of the individual.

(5) Personal care aide services shall be delivered by one of the following:

(a) An employee of a medicare-certified, or otherwise-accredited home health agency; or

(b) A non-agency personal care aide.

(6) In order to be a provider and submit a claim for reimbursement, all personal care aide service providers shall meet the following:

(a) May be the individual's legally responsible family member as that term is defined in rule 5160-45-01 of the Administrative Code if the legally responsible family member is employed by a medicare-certified, otherwise-accredited, or other ODM-approved agency.

(b) May be the foster caregiver of the individual if the foster caregiver is employed by a medicare-certified, otherwise-accredited, or other ODM-approved agency.

(c) Be providing personal care aide services for one individual, or for up to three individuals in a group setting during a face-to-face visit.

(d) Comply with the additional applicable provider-specific requirements as specified in paragraph (A)(7) or (A)(8) of this rule.

(7) Medicare-certified and otherwise-accredited agencies shall ensure that personal care aides meet the following requirements:

(a) Before commencing service delivery, the personal care aide shall:

(i) Obtain a certificate of completion of either a competency evaluation program or training and competency evaluation program approved or conducted by the Ohio department of health under section 3721.31 of the Revised Code, or the medicare competency evaluation program for home health aides as specified in 42 C.F.R. 484.80 (as in effect on October 1, ~~2020~~ 2021), and

(ii) Obtain and maintain first aid certification from a program that may be from a class that is solely internet-based, and that does not have to include hands-on training by a certified first aid instructor and a successful return demonstration of what was learned in the course.

(b) Maintain evidence of the completion of twelve hours of in-service continuing education within a twelve-month period, excluding agency and program-specific orientation. Continuing education shall be initiated immediately, and shall be completed annually thereafter.

(c) Receive supervision from an Ohio-licensed RN, or an Ohio-licensed LPN, at the direction of an RN in accordance with section 4723.01 of the Revised Code. The supervising RN, or LPN at the direction of an RN, shall:

(i) Conduct a face-to-face individual home visit explaining the expected activities of the personal care aide, and identifying the individual's personal care aide services to be provided.

(ii) Conduct a face-to-face individual home visit at least every sixty days while the personal care aide is present and providing care to evaluate the provision of personal care aide services, and the individual's satisfaction with care delivery and personal care aide performance. The visit shall be documented in the individual's record.

(iii) Discuss the evaluation of personal care aide services with the case manager.

(d) Face-to-face visits referenced in this paragraph may be conducted by telephone or electronically, unless the individual's needs necessitate a face-to-face visit.

(8) Non-agency personal care aides shall meet the following requirements:

(a) Before commencing service delivery personal care aides shall have:

(i) Obtained a certificate of completion within the last twenty-four months for either a competency evaluation program or training and competency evaluation program approved or conducted by the Ohio department of health in accordance with section 3721.31 of the Revised Code; or the medicare competency evaluation program for home health aides as specified in 42 C.F.R. 484.80 (as in effect on October 1, ~~2020~~ 2021); or other equivalent training program. The program shall include training in the following areas:

(a) Personal care aide services as defined in paragraph (A)(1) of this rule;

(b) Basic home safety; and

(c) Universal precautions for the prevention of disease transmission, including hand-washing and proper disposal of bodily waste and medical instruments that are sharp or may produce sharp pieces if broken.

(ii) Obtained and maintain first aid certification from a class that may ~~not~~ be solely internet-based and that does not have to include hands-on training by a certified first aid instructor and a successful return demonstration of what was learned in the course.

(b) Complete twelve hours of in-service continuing education annually that shall occur on or before the anniversary date of their enrollment as a medicaid personal care aide provider. Continuing education topics include, but are not limited to, health and welfare of the individual, cardiopulmonary resuscitation (CPR), patient rights, emergency preparedness, communication skills, aging sensitivity, developmental stages, nutrition, transfer techniques, disease-specific trainings, and mental health issues.

(c) Comply with the individual's or the individual's authorized representative's specific personal care aide service instructions, and perform a return demonstration upon request of the individual or the case manager.

(d) Comply with ODM monitoring requirements in accordance with rule 5160-45-06 of the Administrative Code.

(9) All personal care aide providers shall maintain a clinical record for each individual served in a manner that protects the confidentiality of these records. Medicare-certified, or otherwise-accredited agencies, shall maintain the clinical records at their place of business. Non-agency personal care aides shall maintain the clinical records at their place of business, and maintain a copy in the individual's residence. For the purposes of this rule, the place of business shall be a location other than the individual's residence. At a minimum, the clinical record shall contain:

(a) Identifying information, including but not limited to: name, address, age, date of birth, sex, race, marital status, significant phone numbers and health insurance identification numbers of the individual.

(b) The medical history of the individual.

(c) The name of individual's treating physician.

(d) A copy of the initial and all subsequent person-centered services plans.

(e) Documentation of all drug and food interactions, allergies and dietary restrictions.

(f) A copy of any advance directives including, but not limited to, do not resuscitate (DNR) order or medical power of attorney, if they exist.

(g) Documentation of tasks performed or not performed, arrival and departure times, and the dated signatures of the provider and individual or the individual's authorized representative, verifying the service delivery upon completion of service delivery. The individual or the individual's authorized representative's signature of choice shall be documented on the individual's person-centered services plan, and shall include any of the following: a handwritten signature, initials, a stamp or mark, or an electronic signature.

(h) Progress notes signed and dated by the personal care aide, documenting all communications with the case manager, treating physician, other

members of the team, and documenting any unusual events occurring during the visit, and the general condition of the individual.

(i) A discharge summary, signed and dated by the departing non-agency personal care aide or the RN supervisor of an agency personal care aide, at the point the personal care aide is no longer going to provide services to the individual, or when the individual no longer needs personal care aide services. The summary should include documentation regarding progress made toward achievement of goals as specified on the individual's all services plan and indicate any recommended follow-ups or referrals.

(B) Adult day health center services.

(1) "Adult day health center services (ADHCS)" are regularly scheduled services delivered at an adult day health center to individuals who are age eighteen or older. A qualifying adult day health center must be a freestanding building or a space within another building that shall not be used for other purposes during the provision of ADHCS.

(a) An adult day health center shall provide:

(i) Waiver nursing services as set forth in rule 5160-44-22 of the Administrative Code, or personal care aide services as set forth in paragraph (A)(1) of this rule;

(ii) Recreational and educational activities; and

(iii) At least one meal, but no more than two meals, per day that meet the individual's dietary requirements.

(b) An adult day health center may also provide:

(i) Skilled therapy services as set forth in rule 5160-12-01 of the Administrative Code; and

(ii) Transportation of the individual to and from ADHCS.

(c) ADHCS are reimbursable at a full-day rate when five or more hours are provided to an individual in a day. ADHCS are reimbursable at a half-day rate when less than five hours are provided in a day.

(d) All of the services set forth in paragraphs (B)(1)(a) and (B)(1)(b) of this rule and delivered by an adult day health center shall not be reimbursed as separate services.

(e) ADHCS providers approved to provide services on the effective date of this rule may also furnish ADHCS described in paragraph (B) of this rule at the individual's place of residence, telephonically, or electronically.

(2) ADHCS do not include services performed in excess of what is approved pursuant to, and specified on, the individual's person-centered services plan.

(3) In order to be a provider and submit a claim for reimbursement, providers of ADHCS shall operate the adult day health center in compliance with all federal, state and local laws, rules and regulations.

(4) All providers of ADHCS shall:

(a) Comply with federal nondiscrimination regulations as set forth in 45 C.F.R. part 80 (as in effect on October 1, ~~2020~~ 2021).

(b) Provide for replacement coverage of a loss due to theft, property damage, and/or personal injury; and maintain a written procedure identifying the steps an individual takes to file a liability claim. Upon request, verification of coverage shall be provided to ODM or its designee.

(c) Maintain evidence of non-licensed direct care staff's completion of twelve hours of in-service training every twelve months.

(d) Ensure that any waiver nursing services provided are within the nurse's scope of practice as set forth in rule 5160-44-22 of the Administrative Code.

(e) Provide task-based instruction to direct care staff providing personal care aide services as set forth in paragraph (A)(1) of this rule.

(f) At all times, maintain a ~~1:6~~ one to six ratio of paid direct care staff to individuals.

(5) Providers of ADHCS shall maintain a clinical record for each individual served in a manner that protects the confidentiality of these records. At a minimum, the clinical record shall contain the following:

(a) Identifying information, including but not limited to: name, address, age, date of birth, sex, race, marital status, significant phone numbers, and health insurance identification numbers of the individual.

(b) The medical history of the individual.

(c) The name of the individual's treating physician.

(d) A copy of the initial and all subsequent all services plans.

(e) A copy of any advance directive including, but not limited to, DNR order or medical power of attorney, if they exist.

(f) Documentation of all drug and food interactions, allergies and dietary restrictions.

(g) Documentation that clearly shows the date of ADHCS delivery, including tasks performed or not performed, and the individual's arrival and departure times. Nothing shall prohibit the use of technology-based systems in collecting and maintaining the documentation required by this paragraph.

(h) A discharge summary, signed and dated by the departing ADHCS provider, at the point the ADHCS provider is no longer going to provide services to the individual, or when the individual no longer needs ADHCS. The summary should include documentation regarding progress made toward goal achievement and indicate any recommended follow-ups or referrals.

(i) Documentation of the information set forth in rule 5160-44-22 of the Administrative Code when the individual is provided waiver nursing and/ or skilled therapy services.

(C) Supplemental adaptive and assistive device services.

(1) "Supplemental adaptive and assistive device services" are medical equipment, supplies and devices, and vehicle modifications to a vehicle owned by the individual, or a family member, or someone who resides in the same household as the individual, that are not otherwise available through any other funding source and that are suitable to enable the individual to function with greater independence, avoid institutionalization, and reduce the need for human assistance. All supplemental adaptive and assistive device services shall be prior-approved by ODM or its designee. ODM or its designee shall only approve the lowest cost alternative that meets the individual's needs as determined during the assessment process.

(a) Reimbursement for medical equipment, supplies and vehicle modifications shall not exceed a combined total of ten thousand dollars within a calendar year per individual.

(b) ODM or its designee shall not approve the same type of medical equipment, supplies and devices for the same individual during the same calendar year, unless there is a documented need for ongoing medical equipment, supplies or devices as documented by a licensed health care professional, or a documented change in the individual's medical and/or physical condition requiring the replacement.

(c) ODM or its designee shall not approve the same type of vehicle modification for the same individual within the same three-year period, unless there is a documented change in the individual's medical and/or physical condition requiring the replacement.

(d) Supplemental adaptive and assistive device services do not include:

(i) Items considered by the federal food and drug administration as experimental or investigational;

(ii) Funding of down payments toward the purchase or lease of any supplemental adaptive and assistive device services;

(iii) Equipment, supplies or services furnished in excess of what is approved in the individual's person-centered services plan;

(iv) Replacement equipment or supplies or repair of previously approved equipment or supplies that have been damaged as a result of perceived misuse, abuse or negligence; and

(v) Activities described in paragraph (C)(2)(c) of this rule.

(2) Vehicle modifications.

(a) Reimbursable vehicle modifications include operating aids, raised and lowered floors, raised doors, raised roofs, wheelchair tie-downs, scooter/ wheelchair handling devices, transfer seats, remote devices, lifts, equipment repairs and/or replacements, and transfers of equipment from one vehicle to another for use by the same individual. Vehicle modifications may also include the itemized cost, and separate invoicing of vehicle adaptations associated with the purchase of a vehicle that has not been pre-owned or pre-leased.

(b) Before the authorization of a vehicle modification, the individual and, if applicable, any other person(s) who will operate the vehicle shall provide ODM or its designee with documentation of:

(i) A valid driver's license, with appropriate restrictions, and if requested, evidence of the successful completion of driver training from a qualified driver rehabilitation specialist, or a written statement from a qualified driver rehabilitation specialist attesting to the driving ability and competency of the individual and/or other person(s) operating the vehicle;

(ii) Proof of ownership of the vehicle to be modified;

(iii) Vehicle owner's collision and liability insurance for the vehicle being modified; and

(iv) A written statement from a certified mechanic stating the vehicle is in good operating condition.

(c) Vehicle modifications do not include:

(i) Payment toward the purchase or lease of a vehicle, except as set forth in paragraph (C)(2)(a) of this rule;

(ii) Routine care and maintenance of vehicle modifications and devices;

(iii) Permanent modification of leased vehicles;

(iv) Vehicle inspection costs;

(v) Vehicle insurance costs;

(vi) New vehicle modifications or repair of previously approved modifications that have been damaged as a result of confirmed misuse, abuse or negligence; and

(vii) Services performed in excess of what is approved pursuant to, and specified on, the individual's all services plan.

(3) In order to be a provider and submit a claim for supplemental adaptive and assistive device services, the provider shall:

(a) Ensure all manufacturer's rebates have been deducted before requesting reimbursement for supplemental adaptive and assistive device services.

(b) Ensure the supplemental adaptive and assistive device was tested and is in proper working order, and is subject to warranty in accordance with industry standards.

(4) Providers of supplemental adaptive and assistive device services shall maintain a clinical record for each individual they serve in a manner that protects the confidentiality of these records. At a minimum, the clinical record shall include:

(a) Identifying information, including but not limited to name, address, age, date of birth, sex, race, marital status, significant phone numbers, and health insurance identification numbers of the individual.

(b) The name of the individual's treating physician.

(c) A copy of the initial and all subsequent person-centered services plans.

(d) Documentation that clearly shows the date the supplemental adaptive and assistive device service was provided. Nothing shall prohibit the use of technology-based systems in collecting and maintaining the documentation required by this paragraph.

(D) Supplemental transportation services.

(1) "Supplemental transportation services" are transportation services that are not available through any other resource that enable an individual to access waiver services and other community resources specified on the individual's person-centered services plan. Supplemental transportation services include, but are not limited to assistance in transferring the individual from the point of pick-up to the vehicle and from the vehicle to the destination point.

(2) Supplemental transportation services do not include services performed in excess of what is approved pursuant to, and specified on, the individual's all services plan.

(3) Agency supplemental transportation service providers shall:

(a) Maintain a current list of drivers.

(b) Ensure all drivers providing supplemental transportation services are age eighteen or older.

(c) Maintain a copy of the valid driver's license for each driver.

(d) Maintain collision and liability insurance for each vehicle and driver used to provide supplemental transportation services.

(e) Obtain and exhibit evidence of a valid motor vehicle inspection from the Ohio highway patrol for each vehicle used in the provision of supplemental transportation services.

(f) Obtain and maintain a certificate of completion of a course in first aid for each driver used to provide supplemental transportation services that may be from a class that is soley through the internet, and does not have to include hands-on training from a certified first aid instructor and the performance of a successful return demonstration of what was learned in the course.

(g) Ensure drivers are not the individual's legally responsible family member, as that term is defined in rule 5160-45-01 of the Administrative Code.

(h) Ensure drivers are not the individual's foster caregivers.

(4) Non-agency supplemental transportation service providers shall:

(a) Be age eighteen or older.

(b) Possess a valid driver's license.

(c) Maintain collision and liability insurance for each vehicle used to provide supplemental transportation services.

(d) Obtain and exhibit evidence of a valid motor vehicle inspection from the Ohio highway patrol for each vehicle used in the provision of supplemental transportation services.

(e) Obtain and maintain a certificate of completion of a course in first aid that may be from a class that is soley through the internet, and does not have to include hands-on training from a certified first aid instructor and the performance of a successful return demonstration of what was learned in the course.:

(f) Not be the individual's legally responsible family member, as that term is defined in rule 5160-45-01 of the Administrative Code.

(g) Not be the individual's foster caregiver.

(5) All supplemental transportation service providers shall maintain documentation that, at a minimum, includes a log identifying the individual transported, the date of service, pick-up point, destination point, mileage for each trip, and the signature of the individual receiving supplemental transportation services,

or the individual's authorized representative. The individual's or authorized representative's signature of choice shall be documented on the individual's person-centered services plan and shall include any of the following: a handwritten signature, initials, a stamp or mark, or an electronic signature.

(E) ODM is authorized to deem any provider certified by ODA or the Ohio department of developmental disabilities (DODD) to provide waiver services as having satisfied the requirements for approval by ODM for the same or similar services.

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