

(A) Purpose

The purpose of this rule is to specify the service definition for informal respite and set forth the individual's eligibility for this service and to set forth the certification standards required under section ~~5123.045~~ 5123.16 of the Revised Code for providers of informal respite to individuals enrolled in the HCBS level one waiver administered by the department. Informal respite is a service that is directed and monitored by family members with whom the individual resides.

(B) Definitions

(1) "Informal respite" means services provided by a limited provider to individuals unable to care for themselves, furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care. Informal respite may be provided in the individual's home or place of residence, home of a friend or family member or sites of community activities. For purposes of this rule, "family member" means parent(s), brother(s), sister(s), spouse, son(s), daughter(s), grandparent(s), aunt(s), uncle(s), cousin(s), or guardian of the individual who has mental retardation or developmental disabilities. "Family member" also means person(s) acting in a role similar to those specified in this paragraph even though no legal or blood relationship exists if the individual who has mental retardation or developmental disabilities lives with the person(s) and is dependent on him/her to the extent that if the supports were withdrawn another living arrangement would have to be found. The person(s) shall verify the relationship by signature. ~~The benefit package in the level one waiver includes a limitation of two thousand five hundred dollars annually for informal respite care. An individual's annual expenditure for informal respite may exceed two thousand five hundred dollars, subject to prior authorization during the development of the initial ISP, as part of the ISP review process or at a time when needs change and are subsequently documented in an ISP, consistent with the preferences of the individual or family. Through the prior authorization process, the additional services shall be approved if the benefit limitation for this service, institutional respite, homemaker/personal care, and transportation combined ~~do~~ shall not exceed five thousand dollars annually and unless an assessment contraindicates the need for the service.~~

(2) "Limited provider" means a person who is known to the individual, is selected by the individual or the individual's guardian and provides informal respite only to the individual or to multiple individuals who live in the same family setting.

(C) Family member responsibility and individual eligibility

- (1) An individual enrolled in the level one waiver eligible for this service must have a family member who is able and willing to accept responsibility for training and monitoring health management activities, behavior support, major unusual incident reporting and other activities required to meet the needs of the individual as identified in the individual's ISP. The responsible family member shall document the following on forms and according to procedures prescribed by the department:
 - (a) Orientation and training of a limited provider, prior to the delivery of services, about activities required to meet the needs and preferences of the individual(s) including any training stipulated for the individual(s) in his/her ISP(s) and other information related to health and welfare needs of the individual who receives informal respite.
 - (b) At least annually, training to assure that the limited provider understands the following:
 - (i) The reporting requirements set forth in rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety and the reasonable steps necessary to prevent the occurrence or reoccurrence of incidents adversely affecting health and safety;
 - (ii) The rights of an individual set forth in section 5123.62 of the Revised Code; and
 - (iii) The activities required to meet the needs and preferences of the individual(s), including any training stipulated for the individual(s) in his/her ISP(s) and other information related to health and welfare needs of the individual.
 - (c) The family member shall verify the relationship with the individual by signature.
- (2) For purposes of this service under the level one waiver, the family member shall provide the following to fulfill the program management requirements of section 5126.14 of the Revised Code:
 - (a) Monitor the delivery of the informal respite service as outlined in the ISP;
 - (b) Train limited providers in accordance with this rule;

- (c) Communicate with the person responsible for service and support administration for the individual receiving informal respite;
 - (d) Monitor and report unusual and major unusual incidents;
 - (e) Take immediate actions as necessary to maintain the health, safety, and welfare of the individual receiving informal respite services.
- (3) Failure of the family member to fulfill the requirements of paragraph (C) of this rule shall render the individual no longer eligible for informal respite services under the level one waiver and, subsequent to prior notice and hearing rights in accordance with Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the informal respite service shall be terminated.

(D) Standards and requirements for initial certification of limited providers

An applicant for limited provider certification for informal respite shall meet all of the following requirements in order to ensure the health and welfare of individuals receiving informal respite services.

- (1) The applicant shall be at least eighteen years of age.
- (2) The applicant shall submit an application in accordance with rule ~~5123:2-8-02~~ 5123:2-9-09 of the Administrative Code.
- (3) Criminal background check
 - (a) The applicant shall submit to the department written evidence that a background investigation has been completed in accordance with section 5126.281 of the Revised Code and rule 5123:2-1-05.1 of the Administrative Code.
 - (b) The department shall deny certification to any applicant who has been convicted of or pled guilty to any of the offenses listed in division (E) of section 5126.28 of the Revised Code, unless the applicant meets the standards set forth in paragraph (N) or (R) of rule 5123:2-1-05.1 of the Administrative Code.
- (4) Abuser registry
 - (a) The department shall determine whether the applicant's name appears on

the abuser registry established under sections 5123.50 to 5123.54 of the Revised Code.

- (b) The department shall deny certification to any applicant if the applicant's name appears on the abuser registry.

(5) Training relating to incidents adversely affecting health and safety

The applicant shall submit to the department written assurance that the applicant understands reporting requirements set forth in rule 5123:2-17-02 of the Administrative code relating to incidents adversely affecting health and safety and that the applicant will take all reasonable steps necessary to prevent the occurrence or reoccurrence of incidents adversely affecting health and safety including, but not limited to, notification of the service and support administrator (SSA), family, or legally responsible person as applicable.

(E) Standards and requirements for continuing certification of limited providers

After being certified in accordance with paragraph (D) of this rule, all limited providers of informal respite shall meet all of the following requirements in order to ensure the health and welfare of individuals receiving informal respite services.

(1) Criminal background check

- (a) A limited provider shall report to the department if he or she is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed in division (E) of section 5126.28 of the Revised Code. The limited provider shall make such report, in writing, not later than fourteen calendar days after the date of such charge, conviction or guilty plea.
- (b) The limited provider shall comply with section 5126.281 of the Revised Code and rule 5123:2-1-05.1 of the Administrative Code.
- (c) The department may initiate revocation proceedings for any limited provider who has failed to report in accordance with paragraph (E)(1)(a) of this rule that he or she was charged with, convicted of or pled guilty to any of the offenses listed in division (E) of section 5126.28 of the Revised Code.
- (d) The department shall initiate revocation proceedings for any limited provider who has been convicted of or pled guilty to any of the offenses listed in division (E) of section 5126.28 of the Revised Code, unless the

limited provider meets the standards set forth in paragraph (N) or (R) of rule 5123:2-1-05.1 of the Administrative Code.

(2) Abuser registry

The department shall initiate revocation proceedings for any limited provider whose name has been placed on the abuser registry established under sections 5123.50 to 5123.54 of the Revised Code.

(3) Selection by the individual/guardian and individual needs

The limited provider shall provide written documentation from the individual's ISP that he or she has been selected by the individual or the individual's guardian to provide informal respite services and shall present such documentation upon request by ODJFS, the department, or the county board. The limited provider shall not agree to provide services to any individual whose needs the limited provider cannot meet.

(4) Orientation and training by family member

(a) Prior to delivering services, the limited provider shall participate in an orientation and resulting training by the responsible family member about activities required to meet the needs and preferences of the individual(s), including any training stipulated for the individual(s) in his/her ISP(s) and other information related to health and welfare needs of the individual who receives informal respite.

(b) At least annually, the limited provider shall:

(i) Participate in training stipulated for the individual(s) in his/her ISP(s);

(ii) Provide written assurance that the limited provider understands reporting requirements set forth in rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health;

(iii) Provide written assurance that the limited provider understands the rights of an individual set forth in section 5123.62 of the Revised Code. The limited provider shall report any violations of those rights in accordance with division (B) of section 5123.64 of the Revised Code.

(5) ISP compliance and notification

- (a) The limited provider shall implement informal respite services ~~at the frequency and duration the limited provider has agreed to provide as set forth in table one of appendix B ("Service and Payment Agreement") to rule 5123:2-8-10 of the Administrative Code, which is attached to~~ in accordance with the ISP and shall notify the individual or family member if he/she is not able to provide informal respite services.
- (b) The limited provider has and shall continue to take all reasonable steps necessary to prevent the occurrence or reoccurrence of incidents adversely affecting health and safety including, but not limited to, notification of the incident to the person responsible for service and support administration and the family member.
- (c) The limited provider has and shall continue to communicate with service and support administration staff and the responsible family member for the purpose of coordinating activities to ensure that services are provided to the individual in accordance with the ISP and intended outcomes.

(6) Provider eligibility

The limited provider shall not provide informal respite services to his/her minor child (under age eighteen) or to his/her spouse.

(7) Evidence of department certification

The limited provider shall maintain documentation from the department of the limited provider's certification under this rule.

(F) Exception related to number of individuals served by a limited provider

Except in the case of multiple individuals enrolled in the HCBS level one waiver who live in the same family setting, the limited provider shall not provide informal respite under the HCBS level one waiver to more than one individual.

(G) Denial, suspension, or revocation

- (1) Failure to comply with the standards set forth in this rule for initial certification of providers may result in denial of certification by the department in accordance with rule 5123:2-9-09 of the Administrative Code.

- (2) After being certified in accordance with this rule, providers shall comply with the continuing certification standards set forth in this rule. Providers shall be subject to monitoring and compliance reviews conducted by the ~~LMAA county board~~ and/or the department as set forth in rule ~~5123:2-8-18~~ 5123:2-9-08 of the Administrative Code. Failure to comply with the standards set forth in this rule for continuing certification of providers may result in corrective action by the department up to and including suspension or revocation of certification as set forth in rule ~~5123:2-8-18~~ 5123:2-9-08 of the Administrative Code.
- (3) When denying, suspending, or revoking certification under this rule, the department shall comply with the notice and hearing requirements of Chapter 119. of the Revised Code.

Effective: 07/01/2006

R.C. 119.032 review dates: 04/28/2008

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5123.04, 5123.045, 5123.16, 5111.871
Rule Amplifies: 5123.04, 5123.045, 5123.16, 5111.871
Prior Effective Dates: 4/28/03