

*** Proposed New Rule – June 2, 2011 ***

5123:2-9-21 **Home and community-based services waivers - informal respite under the level one waiver.** [\[This rule will replace existing rule 513:2-8-03.\]](#)

(A) Purpose

The purpose of this rule is to define informal respite and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "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.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Family member" means a person who is related to the individual by blood, marriage, or adoption.
- (5) "Homemaker/personal care" has the same meaning as in rule 5123:2-9-30 of the Administrative Code.
- (6) "Independent provider" means a self-employed person who provides services and 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.
- (7) "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.
- (8) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (9) "Informal respite" means services provided to an individual unable to care for himself or herself, furnished by a person who is known to the individual, 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 at sites of community activities.
- (10) "Institutional respite" has the same meaning as in rule 5123:2-9-22 of the Administrative Code.

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- (11) "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.
- (12) "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 paragraph (E)(2) of this rule to validate payment for medicaid services.
- (13) "Transportation" has the same meaning as in rule 5123:2-9-24 of the Administrative Code.
- (14) "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) Informal respite shall be provided by an independent provider known to the individual who:
 - (a) Meets the requirements of this rule;
 - (b) Has a medicaid provider agreement with the Ohio department of job and family services; and
 - (c) Has completed and submitted an application and adheres to the requirements of rule 5123:2-2-01 of the Administrative Code.
- (2) The qualifications of a provider of informal respite shall be determined by the individual and identified in the individual service plan. The qualifications that an individual establishes shall not conflict with the requirements of this rule and shall be compatible with the generally-accepted standards for informal respite. A provider of informal respite is not required to be licensed or possess other professional credentials unless required by state law.
- (3) Informal respite shall not be provided by an agency provider, a county board, or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.
- (4) Failure 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.

(D) Requirements for service delivery

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- (1) Informal respite shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (H) of rule 5101:3-42-01 of the Administrative Code.
- (2) In order to be eligible for informal respite, an individual shall have a family member who is able and willing to accept responsibility for training the provider 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 service plan. The responsible family member shall document the following on forms and according to procedures prescribed by the department:
 - (a) Orientation and training of the provider, prior to the delivery of services, about activities required to meet the needs and preferences of the individual, including any training stipulated for the individual in his or her individual service plan and other information related to health and welfare needs of the individual.
 - (b) Annual training of the provider to ensure that the provider understands:
 - (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 provisions governing rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and
 - (iii) The activities required to meet the needs and preferences of the individual, including any training stipulated for the individual in his or her individual service plan and other information related to health and welfare needs of the individual.
- (3) The responsible family member shall:
 - (a) Ensure the provider is delivering informal respite as outlined in the individual service plan.
 - (b) Ensure the provider is documenting the delivery of informal respite in accordance with paragraph (E)(2) of this rule.
 - (c) Upon knowledge of an unusual incident or a major unusual incident, take immediate actions as necessary to maintain the health, safety, and welfare of the individual receiving informal respite.
- (4) Failure of the responsible family member to fulfill the requirements of this rule shall render the individual ineligible for informal respite under the waiver and, subsequent to

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prior notice and hearing rights in accordance with Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, informal respite shall be terminated.

(E) Documentation of services

- (1) The requirements of paragraph (B) of rule 5123:2-9-05 of the Administrative Code do not apply to service documentation for informal respite.
- (2) Service documentation for informal respite 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) Times the delivered service started and stopped.
 - (i) Written or electronic signature of the person delivering the service.
 - (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.

(F) Payment standards

- (1) The billing unit, service code, and payment rate for informal respite are contained in the appendix to this rule.
- (2) Payment for homemaker/personal care, informal respite, institutional respite, and transportation, alone or in combination, shall not exceed five thousand dollars per waiver eligibility span.

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Effective:	XX/XX/XXXX
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APPENDIX

BILLING UNIT, SERVICE CODE, AND PAYMENT RATE
FOR INFORMAL RESPITE

Billing Unit: Fifteen minutes

Service Code: FIN

Payment Rate: \$2.75