

5123:2-13-06

Individual options waiver - adult foster care.**(A) Purpose**

The purpose of this rule is to establish adult foster care as a service under the individual options waiver, specify the service definition and requirements, establish the certification standards required under section 5123.16 of the Revised Code for providers of the service, establish the documentation requirements, and establish the standards governing payments for the service.

(B) Definitions

- (1) "Adult" means an individual eighteen years of age or older.
- (2) "Adult foster care" means personal care and supportive services (e.g., homemaker, chore, and medication oversight to the extent permitted under state law) provided in a private home by an unrelated, principal care giver who lives in the home and whose primary, legal residence is that home. Adult foster care is furnished to adults who receive these services in conjunction with residing in the home. Adult foster care services, their associated activities, and skill development proximate the rhythm of life that naturally occurs as part of living in the family home. Homemaker and chore services are furnished to the individual as a component of adult foster care. Due to the environment provided by foster care, segregating these activities into discrete services is impractical.
- (3) "Adult foster care provider" means a provider of adult foster care who meets the requirements under rule 5123:2-13-04 of the Administrative Code and is certified to provide homemaker/personal care under that rule.
- (4) "Agency provider" means a provider of adult foster care services under the individual options waiver other than an individual provider.
- (5) "Homemaker/personal care" means the waiver service as defined in rule 5123:2-13-04 of the Administrative Code.
- (6) "Individual provider" means a self-employed person who provides adult foster care services under the individual options waiver and does not employ, either directly or through a contract, anyone else to provide such services.
- (7) "Individual with mental retardation or other developmental disability" means a person with "mental retardation" or "developmental disability" as those terms are defined in section 5126.01 of the Revised Code.
- (8) "Institutional respite" means home and community-based services provided 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, in facilities certified as intermediate care facilities for the mentally

retarded or other facilities licensed by the department under section 5123.19 of the Revised Code.

- (9) "ISP" means the individual service plan, a written description of the services, supports, and activities to be provided to an individual.
- (10) "ODDP" means the Ohio developmental disabilities profile, the standardized instrument utilized by the department to assess the relative needs and circumstances of an individual compared to others.
- (11) "ODJFS" means the Ohio department of job and family services as established by section 121.02 of the Revised Code.
- (12) "Payment authorization for waiver services" (PAWS) means the process followed and format used to communicate the amount and payment for each waiver service that has been established by the ISP.
- (13) "Related by blood or marriage" means parents; grandparents, including grandparents with the prefix "great," "great-great," "grand," or "great-grand;" siblings; aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand;" stepparents or stepsiblings; and spouses and former spouses of individuals related by blood or adoption.
- (14) "Service and support administrator" (SSA) means a person, regardless of title, employed by or under subcontract 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.

(C) Requirements for adult foster care

- (1) The total number of individuals (including participants served under the waiver) with mental retardation or other developmental disability living in the home shall not exceed four.
- (2) Unless the home is licensed under section 5123.19 of the Revised Code, the adult foster care provider shall not provide adult foster care services under the waiver to more than three of the individuals living in the home.
- (3) Individual providers of adult foster care shall reside in the home where services are delivered and that home shall be their primary, legal residence.
- (4) Agency providers of adult foster care shall either reside in the home where services are delivered and that home shall be their primary, legal residence or they shall employ or subcontract with a principal care giver who shall reside in the home where services are delivered and that home shall be the principal care giver's primary, legal residence.

(5) Neither providers of adult foster care nor principal care givers of adult foster care shall be related by blood, adoption, or marriage to an individual receiving adult foster care services.

(6) Neither providers of adult foster care nor principal care givers of adult foster care shall be the full guardian of an individual receiving adult foster care services.

(D) Supports provided as a component of adult foster care may include the following:

(1) Basic personal care and grooming, including bathing, care of the hair, and assistance with clothing.

(2) Assistance with bladder and/or bowel requirements or problems, including helping the individual to and from the bathroom or assisting the individual with bedpan routines.

(3) Assisting the individual with self-medication or provision of medication administration for prescribed medications and assisting the individual with, or performing, health care activities.

(4) Performing household services essential to the individual's health and comfort in the home (e.g., necessary changing of bed linens or rearranging of furniture to enable the individual to move about more easily in his/her home).

(5) Assessing, monitoring, and supervising the individual to ensure the individual's safety, health, and welfare.

(6) Light cleaning tasks in areas of the home used by the individual.

(7) Preparation of a shopping list appropriate to the individual's dietary needs and financial circumstances, performance of grocery shopping activities as necessary, and preparation of meals.

(8) Personal laundry.

(9) Incidental neighborhood errands as necessary, including accompanying the individual to medical and other appropriate appointments, and accompanying the individual for short walks outside the home.

(10) Skill development to prevent the loss of skills and enhance skills that are already present that lead to greater independence and community integration.

(E) Adult foster care service limitations

(1) Individuals who choose to receive personal care services and supports in adult

foster care settings shall receive adult foster care in lieu of homemaker/personal care except as provided in paragraph (F) of this rule. The SSA shall explain the implications of this choice to the individual.

(2) Adult foster care is not available to individuals who are eligible to receive reimbursement for foster care under Title IV-E as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193 and the Balanced Budget Act of 1997, P.L. 105-33.

(3) Adult foster care shall not be billed on the same day as homemaker/personal care.

(F) Homemaker/personal care services and limitations

(1) Individuals may receive homemaker/personal care when the individual chooses services that take place outside the foster care setting and the services are provided by a certified homemaker/personal care provider. An example would be overnight summer camp.

(a) An agency provider may subcontract for these services. If the agency provider opts to subcontract, the daily rate for adult foster care may be billed by the adult foster care provider for that day.

(b) In situations where an agency provider does not choose to subcontract for these services or in situations where an individual served by an individual provider seeks homemaker/personal care services outside of the adult foster care setting, the adult foster care provider shall not bill for adult foster care services on a day when homemaker/personal care is rendered. This prohibition exists regardless of whether claims for homemaker/personal care are submitted to the department for the entire twenty-four hour period or for a lesser amount of time that day.

(2) In circumstances where a principal care giver of adult foster care is temporarily unavailable to provide services, substitute coverage may be provided as follows:

(a) In the individual's foster care setting or in another community setting agreed to by the individual.

(b) For individual providers, a certified homemaker/personal care provider is arranged to deliver substitute coverage and the service is billed as homemaker/personal care. Individual providers shall work with the individual's SSA to arrange for substitute coverage when needed.

(c) For agency providers, an adult foster care provider is arranged to deliver substitute coverage and the service is billed as adult foster care.

(3) Homemaker/personal care shall not be billed on the same day as adult foster care.

(4) Individual providers of adult foster care shall not bill homemaker/personal care for services to individuals for whom they provide adult foster care.

(G) Respite services

An individual who receives adult foster care may also choose to use institutional respite services during a short-term absence or need for relief of the principal care giver.

(H) Provider qualifications

(1) Providers of adult foster care shall complete an application and meet the applicable individual options waiver homemaker/personal care certification requirements (i.e., individual, agency, or licensed facility) as outlined in rule 5123:2-13-04 of the Administrative Code.

(2) Providers currently certified to deliver individual options waiver homemaker/personal care services are only required to complete and submit to the department the adult foster care service application.

(3) A county board shall not be certified to provide adult foster care services or enter into a medicaid provider agreement with ODJFS for adult foster care services.

(I) Subcontractors

(1) Individual providers of adult foster care shall not subcontract the provision of adult foster care services.

(2) Agency providers of adult foster care may subcontract the provision of adult foster care services in accordance with paragraph (I) of rule 5123:2-13-04 of the Administrative Code.

(J) Adult foster care shall be identified as a service in the individual's written ISP prior to the service being delivered and in the PAWS submitted to the department.

(K) Individuals who receive adult foster care services may make a request for prior authorization under rule 5101:3-41-12 of the Administrative Code. For individuals with an assigned ODDP funding range of one or two, a request for an authorized funding range adjustment shall be sent to the department so that adult foster care services in rate band one shall result for that individual (as the adult foster care rate band one exceeds the amounts in ODDP funding ranges one and two.) In no instance shall the prior authorization result in a per diem rate in excess of rate band

four as contained in appendix A to this rule.

(L) Documentation requirements

- (1) Notwithstanding paragraph (B) of rule 5123:2-9-05 of the Administrative Code, service documentation, meaning the maintenance of all records and information on one or more documents, including documents that can be printed from electronic software programs, shall be maintained in such a manner as to fully disclose the nature and extent of the services delivered.
- (2) Service documentation for adult foster care shall include each of the following to validate medicaid reimbursement:
 - (a) Date of service.
 - (b) Place of service.
 - (c) Name of recipient(s).
 - (d) Medicaid identification number of the recipient(s).
 - (e) Name of provider.
 - (f) Provider identifier/contract number.
 - (g) Written or electronic signature of the person delivering the service or initials of the person delivering the service if a signature and corresponding initials are on file with the provider.
 - (h) Type of service.
 - (i) Number of individuals sharing services that day.
 - (j) Forms that identify, for the individual, service(s) and support delivered as a component of adult foster care as specified on the recipient's approved ISP. The forms shall include all of the above and shall be checked off and initialed by the provider for each date of service.

(M) Payment standards

- (1) Notwithstanding the requirements of paragraphs (D)(1), (D)(8), (D)(9), (D)(10), (D)(11), and (D)(12) of rule 5123:2-9-06 of the Administrative Code, payment for adult foster care services shall be at a daily rate established by an independent model, adjusted by each county's cost of doing business category. Payment rates are contained in appendix A to this rule.
- (2) Payment for one individual shall be at one hundred percent of the daily rate for

the range assigned by the ODDP.

- (3) Payment for a group size of two individuals shall be at eighty-five percent of the daily rate for the range for each individual.
- (4) Payment for a group size of three individuals shall be at seventy-five percent of the daily rate for the range for each individual.
- (5) Payment for a group size of four individuals shall be at sixty-five percent of the daily rate for the range for each individual.
- (6) The base rate paid to a provider of adult foster care shall be adjusted to reflect the number of individuals sharing the service, regardless of funding source.
- (7) Providers shall be reimbursed at the lesser of their usual and customary rate (UCR) or the statewide payment rate for each waiver service that is delivered. The department shall establish a mechanism through which providers shall communicate their usual and customary rates (UCRs) to the department. A single provider may charge different UCRs for the same service when the service is provided in different geographic areas of the state. In this instance, the UCRs charged shall be declared for each cost of doing business category described in appendix B to this rule that identifies the counties in which the provider intends to provide specific services. Upon notification of a provider's UCR or change in UCR, the department shall provide notice to the appropriate county board.
- (8) Agency providers of adult foster care may bill for each day the individual receives adult foster care through the agency.
- (9) Individual providers of adult foster care may bill for each day the adult foster care service is delivered. Adult foster care shall not be billed on the same day as homemaker/personal care.
- (10) Payment for adult foster care does not include room and board, items of comfort or convenience, or costs for the maintenance, upkeep, and improvement of the foster home.
- (11) ODJFS retains the final authority, based on the recommendation of the department, to establish payment rates for all waiver services included in HCBS waivers administered by the department.

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Certification

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