



Ohio Administrative Code

Rule 5123-9-34 Home and community-based services waivers - residential respite under the individual options, level one, and self-empowered life funding waivers.

Effective: November 19, 2020

(A) Purpose

This rule defines residential respite and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

For the purposes of this rule, the following definitions shall apply:

- (1) "Agency provider" means an entity that directly employs at least one person in addition to the chief executive officer for the purpose of providing services for which the entity must be certified in accordance with rule 5123:2-2-01 of the Administrative Code.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Homemaker/personal care" has the same meaning as in rule 5123-9-30 of the Administrative Code.
- (5) "Independent provider" means a self-employed person who provides services for which he or she must be certified in accordance with rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (6) "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 or other person authorized to give consent.



(7) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

(8) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.

(9) "Participant-directed homemaker/personal care" has the same meaning as in rule 5123-9-32 of the Administrative Code.

(10) "Residential respite" means services provided to an individual unable to care for himself or herself furnished on a short-term basis because of the absence or need for relief of those persons routinely providing care. Residential respite shall only be provided in:

(a) An intermediate care facility for individuals with intellectual disabilities;

(b) A residential facility licensed by the department pursuant to section 5123.19 of the Revised Code;
or

(c) A residence, other than an intermediate care facility for individuals with intellectual disabilities or a residential facility licensed by the department pursuant to section 5123.19 of the Revised Code, where residential respite is provided by an agency provider.

(11) "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) of this rule to validate payment for medicaid services.

(12) "Waiver eligibility span" means the twelve-month period following either an individual's initial waiver enrollment date or a subsequent eligibility re-determination date.

(C) Provider qualifications



- (1) Residential respite shall be provided by one of the following entities that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid:
 - (a) An intermediate care facility for individuals with intellectual disabilities;
 - (b) A residential facility licensed by the department pursuant to section 5123.19 of the Revised Code;
or
 - (c) An agency provider that is approved to provide residential respite in accordance with this rule.
 - (2) An applicant seeking approval to provide residential respite shall complete and submit an application through the department's website (<http://dodd.ohio.gov>).
 - (3) Failure of a certified provider 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.
 - (4) Failure of a licensed provider to comply with this rule and Chapter 5123:2-3 of the Administrative Code may result in denial, suspension, or revocation of the provider's license.
- (D) Requirements for service delivery
- (1) Residential respite shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code.
 - (2) The individual service plan shall address emergency and replacement coverage should the individual unexpectedly need to leave the residential respite service delivery location.
 - (3) Residential respite may be provided at a residence other than an intermediate care facility for individuals with intellectual disabilities or a residential facility licensed by the department pursuant to section 5123.19 of the Revised Code only when:
 - (a) Each individual who receives homemaker/personal care or participant-directed



homemaker/personal care and permanently resides at the residence consents to the provision of residential respite at the residence; and

(b) The total number of persons with developmental disabilities being served at the residence does not exceed four.

(4) Residential respite is limited to ninety calendar days of service per waiver eligibility span.

(5) Residential respite shall not be provided to an individual at the same time as homemaker/personal care or participant-directed homemaker/personal care.

(E) Documentation of services

Service documentation for residential respite shall include each of the following to validate payment for medicaid services:

(1) Type of service.

(2) Date of service.

(3) Place of service.

(4) Name of individual receiving service.

(5) Medicaid identification number of individual receiving service.

(6) Name of provider.

(7) Provider identifier/contract number.

(8) 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.



(9) 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 units, service codes, and payment rates for residential respite are contained in the appendix to this rule.

(2) Only one provider shall bill residential respite for the same individual on any given day.

(3) Residential respite provided to individuals enrolled in the individual options waiver is subject to the funding ranges and individual funding levels set forth in rule 5123-9-06 of the Administrative Code.

(4) Under the level one waiver, residential respite is subject to the payment limitation set forth in paragraph (D)(1) of rule 5123-9-06 of the Administrative Code.

(5) Payment for residential respite shall not include payment for room and board or transportation.

(G) Authority of director to modify or suspend provisions of this rule

During the COVID-19 state of emergency declared by the governor, the director of the department may:

(1) Modify the limitation in paragraph (D)(4) of this rule to:

(a) Extend the number of residential respite days available in a waiver eligibility span from ninety to one hundred eighty; and/or

(b) Authorize additional residential respite days beyond one hundred eighty in a waiver eligibility span for an individual based on risk to health and welfare as determined by the department.

(2) Suspend the level one waiver payment limitation in paragraph (F)(4) of this rule.