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

(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" ~~has the same meaning as in~~ means an entity that directly employs at least one person in addition to a director of operations for the purpose of providing services for which the entity is certified in accordance with rule 5123-2-08 of the Administrative Code.

(2) "Certified provider" means an agency provider or an independent provider.

~~(2)-(3)~~ "County board" means a county board of developmental disabilities.

(4) "Daily billing unit" means a billing unit that will be used when:

(a) Residential respite is provided to an individual for more than seven hours during a twenty-four hour period; and

(b) The individual stays overnight at a residential respite service delivery location that is not the individual's residence.

~~(3)-(5)~~ "Department" means the Ohio department of developmental disabilities.

(6) "Fifteen-minute billing unit" means a billing unit that:

(a) Will be used when residential respite is provided to an individual who resides in a shared living setting on the same day the shared living caregiver bills for provision of shared living; and

(b) Equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty-two minutes of service delivery time. Minutes of service delivery time accrued throughout a day will be added together for the purpose of calculating the number of fifteen-minute billing units for the day.

~~(4)-(7)~~ "Homemaker/personal care" has the same meaning as in rule 5123-9-30 of the Administrative Code.

~~(5)-(8)~~ "Independent provider" ~~has the same meaning as in~~ means a self-employed person who provides services for which the person is certified in accordance with rule 5123-2-09 of the Administrative Code and does not employ, either directly or

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through contract, anyone else to provide the services.

~~(6)-(9)~~ (9) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, ~~his or her~~ the person's guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.

~~(7)-(10)~~ (10) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

~~(8)-(11)~~ (11) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.

~~(9)-(12)~~ (12) "Participant-directed homemaker/personal care" has the same meaning as in rule 5123-9-32 of the Administrative Code.

(13) "Residential facility" means a home or facility, including an intermediate care facility for individuals with intellectual disabilities, in which an individual with a developmental disability resides, that is licensed by the department pursuant to section 5123.19 of the Revised Code.

~~(10)-(14)~~ (14) "Residential respite" means care and support 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~~ may only be provided in:

~~(a) An intermediate care facility for individuals with intellectual disabilities; [Not needed as "residential facility" includes ICFIID.]~~

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

~~(c) (b) 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 a certified provider.~~

~~(11)-(15)~~ (15) "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~~ includes the items delineated in paragraph (E) of this rule to validate payment for medicaid services.

(16) "Shared living" has the same meaning as in rule 5123-9-33 of the Administrative Code.

~~(12)-(17)~~ (17) "Waiver eligibility span" means the twelve-month period following either an individual's initial waiver enrollment date or a subsequent eligibility re-

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determination date.

(C) Provider qualifications

- (1) Residential respite ~~shall~~ will 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) A residential facility, licensed by the department pursuant to section 5123.19 of the Revised Code;~~ or **["Residential facility" includes ICFIID.]**
 - ~~(c) (b) An agency~~ A certified provider that is approved to provide residential respite in accordance with this rule.
- (2) An applicant seeking approval to provide residential respite ~~shall~~ will complete and submit an application through the ~~department's website (<http://dodd.ohio.gov>)~~ Ohio department of medicaid provider network management system and adhere to the requirements of as applicable, rule 5123-2-08, rule 5123-2-09, or Chapter 5123-3 of the Administrative Code.
- (3) Failure of a certified provider to comply with this rule and as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code may result in denial, suspension, or revocation of the provider's certification.
- (4) Failure of a ~~licensed provider~~ residential facility to comply with this rule and ~~Chapters 5123-3 and 5123:2-3~~ Chapter 5123-3 of the Administrative Code may result in denial, suspension, or revocation of the ~~provider's~~ residential facility's license.

(D) Requirements for service delivery

- (1) Residential respite ~~shall~~ will 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~~ will address emergency and replacement coverage should ~~the~~ an 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.

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(4) Residential respite may not be provided at the provider's residence.

~~(4)~~ (5) Residential respite is limited to ninety calendar days of service per waiver eligibility span.

~~(5)~~ (6) Residential respite ~~shall~~ will not be provided to an individual at the same time as homemaker/personal care, ~~or~~ participant-directed homemaker/personal care, or shared living.

(7) An individual who resides in a shared living setting may receive residential respite at the daily billing unit during a short-term absence or need for relief of the shared living caregiver on a day the shared living caregiver does not bill for provision of shared living.

(8) An individual who resides in a shared living setting may receive residential respite at the fifteen-minute billing unit for the temporary relief of the caregiver on a day the shared living caregiver bills for provision of shared living as long as:

(a) Residential respite and shared living services are not delivered at the same time or by the same person or any other person who resides in the shared living setting;

(b) The shared living caregiver provides no more than twelve hours of personal care and support on that day; and

(c) No more than twelve hours of residential respite at the fifteen-minute billing unit are provided per calendar week.

(E) Documentation of services

Service documentation for residential respite ~~shall~~ will 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.

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- (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 provided on or before December 31, 2023 are contained in ~~the~~ appendix A to this rule. The billing units, service codes, and payment rates for residential respite provided on or after January 1, 2024 are contained in appendix B to this rule.
- (2) The billing units and payment rates for residential respite vary by type of provider and circumstances in which residential respite is provided:
- (a) An intermediate care facility for individuals with intellectual disabilities will use a daily billing unit.
- (b) A residential facility other than an intermediate care facility for individuals with intellectual disabilities will use a daily billing unit or a fifteen-minute billing unit in accordance with paragraphs (B)(4) and (B)(6) of this rule.
- (c) A certified provider will use a daily billing unit or a fifteen-minute billing unit in accordance with paragraphs (B)(4) and (B)(6) of this rule.
- ~~(2)~~ (3) Only one provider ~~shall~~ may bill a daily billing unit for provision of residential respite for the same individual on any given day.
- ~~(3)~~ (4) 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)~~ (5) Payment for residential respite ~~shall~~ does not include payment for room and board or transportation.

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APPENDIX [A](#)

BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR RESIDENTIAL RESPITE [PROVIDED ON OR BEFORE DECEMBER 31, 2023](#)

Residential Respite at an Intermediate Care Facility for Individuals with Intellectual Disabilities

Billing Unit: ~~Per-day~~ [Daily](#), based on a twenty-four-hour period during which service is provided.

Service Codes:	Individual Options Waiver	ALI
	Level One Waiver	FLI
	Self-Empowered Life Funding Waiver	SLI

Payment Rate: ~~\$220.48~~ [\\$311.52](#)

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Residential Respite at a Residential Facility, Other Than an Intermediate Care Facility for Individuals with Intellectual Disabilities, ~~Licensed by the Department Pursuant to Section 5123.19 of the Revised Code~~

Daily Billing Unit

(To be used only when residential respite is provided to an individual for more than seven hours during a twenty-four hour period and the individual stays overnight at a residential respite service delivery location that is not the individual's residence.)

Billing Unit: ~~Per-day~~ Daily, based on a twenty-four-hour period during which service is provided.

Service Codes:	Individual Options Waiver	ALN
	Level One Waiver	FLN
	Self-Empowered Life Funding Waiver	SLN

Payment Rate: ~~\$143.31~~ \$202.49

Fifteen-Minute Billing Unit

(To be used only when residential respite is provided to an individual who resides in a shared living setting on the same day the shared living caregiver bills for provision of shared living.)

Billing Unit: Fifteen minutes.

<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>XXX</u>
	<u>Level One Waiver</u>	<u>XXX</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>XXX</u>

Payment Rate: \$6.07

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~~Residential Respite 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, Where Residential Respite is Provided by an Agency Provider~~
Residential Respite at a Residence Other Than a Residential Facility, Where Residential Respite is Provided by a Certified Provider

Daily Billing Unit

(To be used only when residential respite is provided to an individual for more than seven hours during a twenty-four hour period and the individual stays overnight at a residential respite service delivery location that is not the individual's residence.)

Billing Unit: ~~Per-day~~ Daily, based on a twenty-four-hour period during which service is provided.

Service Codes:	Individual Options Waiver	ALR
	Level One Waiver	FLR
	Self-Empowered Life Funding Waiver	SLR

Payment Rate: ~~\$143.31~~ \$202.49

Fifteen-Minute Billing Unit

(To be used only when residential respite is provided to an individual who resides in a shared living setting on the same day the shared living caregiver bills for provision of shared living.)

Billing Unit: Fifteen minutes.

<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>XXX</u>
	<u>Level One Waiver</u>	<u>XXX</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>XXX</u>

Payment Rate: \$6.07

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APPENDIX B

BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR RESIDENTIAL RESPITE PROVIDED ON OR AFTER JANUARY 1, 2024

2024 payment rates are not yet available and will be provided as soon as possible.

Residential Respite at an Intermediate Care Facility for Individuals with Intellectual Disabilities

<u>Billing Unit:</u>	<u>Daily, based on a twenty-four-hour period during which service is provided.</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>ALI</u>
	<u>Level One Waiver</u>	<u>FLI</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>SLI</u>
<u>Payment Rate:</u>	[To be determined.]	

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Residential Respite at a Residential Facility Other Than an Intermediate Care Facility for Individuals with Intellectual Disabilities

Daily Billing Unit

(To be used only when residential respite is provided to an individual for more than seven hours during a twenty-four hour period and the individual stays overnight at a residential respite service delivery location that is not the individual's residence.)

<u>Billing Unit:</u>	<u>Daily, based on a twenty-four-hour period during which service is provided.</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>ALN</u>
	<u>Level One Waiver</u>	<u>FLN</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>SLN</u>
<u>Payment Rate:</u>	<u>[To be determined.]</u>	

Fifteen-Minute Billing Unit

(To be used only when residential respite is provided to an individual who resides in a shared living setting on the same day the shared living caregiver bills for provision of shared living.)

<u>Billing Unit:</u>	<u>Fifteen minutes.</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>XXX</u>
	<u>Level One Waiver</u>	<u>XXX</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>XXX</u>
<u>Payment Rate:</u>	<u>[To be determined.]</u>	

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Residential Respite at a Residence Other Than a Residential Facility, Where Residential Respite is Provided by a Certified Provider

Daily Billing Unit

(To be used only when residential respite is provided to an individual for more than seven hours during a twenty-four hour period and the individual stays overnight at a residential respite service delivery location that is not the individual's residence.)

<u>Billing Unit:</u>	<u>Daily, based on a twenty-four-hour period during which service is provided.</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>ALR</u>
	<u>Level One Waiver</u>	<u>FLR</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>SLR</u>
<u>Payment Rate:</u>	<u>[To be determined.]</u>	

Fifteen-Minute Billing Unit

(To be used only when residential respite is provided to an individual who resides in a shared living setting on the same day the shared living caregiver bills for provision of shared living.)

<u>Billing Unit:</u>	<u>Fifteen minutes.</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>XXX</u>
	<u>Level One Waiver</u>	<u>XXX</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>XXX</u>
<u>Payment Rate:</u>	<u>[To be determined.]</u>	