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5160-44-33 Nursing facility-based level of care home and community-based services programs: structured family caregiving services.

(A) "Structured Family Caregiving (SFC)" is a service in which an individual at least 18 years of age who is enrolled on the MyCare Ohio, Ohio home care, and pre-admission screening system providing options and resources today (PASSPORT) waiver programs, resides with a caregiver who provides daily care and support to the individual based on the individual's daily care needs. The caregiver may be a non-family member or a family member who resides with the individual in the individual's private home or resides with the individual in the caregiver's private home. Covered SFC services may include:

- (1) Assistance with self-administration of medications as set forth in paragraph (E) of rule 5160-44-27 of the Administrative Code.
- (2) Assistance with the performance of nursing tasks as set forth in paragraph (F) of rule 5160-44-27 of the Administrative Code.
- (3) Tasks normally performed as part of personal care aide services as described in rule 5160-46-04 or personal care as described in rule 173-39-02.11 of the Administrative Code when performed during a SFC service visit. If these tasks are performed during a SFC service visit, they will not be reimbursed as separate services.

(B) Provider requirements

- (1) SFC services will be delivered by a caregiver who is employed by or contracted with a medicare-certified home health agency or otherwise-accredited agency approved by the Ohio Department of Medicaid (ODM) or certified by the Ohio Department of Aging (ODA) to provide SFC.
 - (a) Medicare-certified home health agency is any entity, agency or organization that has and maintains medicare certification as a home health agency and is eligible to participate in the medicaid program upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code.
 - (b) Otherwise-accredited agency is an entity that has and maintains accreditation by a national accreditation organization for the provision of services upon execution of a medicaid provider agreement in accordance with rule 5160-1-17.2 of the Administrative Code. The national accreditation organization will be approved by centers for medicare and medicaid services.
 - (c) Medicare-certified home health agencies and otherwise-accredited agencies will ensure staff they employ or contract with are compliant with 42 C.F.R. 484. (as in effect on October 1, 2023).
- (2) The provider will comply with the requirements in rule 5160-44-02 of the Administrative Code.
- (3) The provider will comply with the requirements in rule 5160-44-31 of the Administrative Code for an ODM-administered waiver program, or with the requirements set forth in Chapter 173-39 of the Administrative Code for the PASSPORT program, as applicable.
- (4) Settings where the individual resides in a private residence owned or leased by a caregiver who is not related by blood or marriage are considered provider-owned or controlled settings and are subject to compliance with the conditions described in paragraph (C) of rule 5160-44-01 of the Administrative Code. The provider will ensure services are provided as authorized and that any modifications needed in

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these settings adhere to the approved person-centered services plan.

(5) The provider will ensure that caregivers meet the following requirements:

(a) Before commencing service, the caregiver will:

(i) Obtain a certificate of completion of either a competency evaluation program or training and competency evaluation program approved or conducted by the Ohio department of health under section 3721.31 of the Revised Code, or the medicare competency evaluation program for home health aides as specified in 42 C.F.R. 484.80 (as in effect on October 1, 2023), and

(ii) Obtain and maintain first aid certification from a course that is not solely internet-based, and that includes hands-on training by a certified first aid instructor and a successful return demonstration of what was learned in the course.

(b) Receive in-service training and maintain documentation that demonstrates the requirements of in-service training have been met as specified in 42 C.F.R. 484.80 (as in effect on October 1, 2023). In-service training will be initiated upon hire and completed annually thereafter.

(c) Receive supervision from an Ohio-licensed registered nurse (RN), or an Ohio-licensed practical nurse (LPN), at the direction of an RN in accordance with section 4723.01 of the Revised Code. The supervising RN, or LPN at the direction of an RN, will:

(i) Conduct an initial in-person home visit with the individual explaining the expected activities of the caregiver and identifying the individual's SFC services to be provided.

(ii) Conduct an in-person home visit with the individual at least every sixty days while the caregiver is present and providing care to evaluate the provision of SFC services, and the individual's satisfaction with care delivery and caregiver performance.

(iii) Discuss the evaluation of SFC services with ODM, ODA or their designee as directed by ODM, ODA, or their designee.

(iv) The visits will be documented in the individual's record.

(d) The RN will conduct in-person RN assessment visits at least twice per year. All other RN assessment service visits may be conducted via telehealth, unless the individual's needs necessitate an in-person visit. When the RN performs an RN assessment visit, the RN will bill the state plan nursing assessment code set forth in the appendix to rule 5160-12-08 of the Administrative Code.

(6) The provider will maintain a clinical record at their place of business for each individual served in a manner that protects the confidentiality of these records. For the purposes of this rule, the place of business will be a location other than the individual's residence. At a minimum, the clinical record will contain:

(a) Identifying information, including but not limited to: name, address, age, date of birth, sex, race, marital status, contact information and medicaid ID of the individual.

(b) The medical history of the individual.

(c) The name of individual's treating physician.

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(d) A copy of the initial and all subsequent PCSP.

(e) Documentation of all drug and food interactions, allergies and dietary restrictions.

(f) A copy of any existing advance directives including, but not limited to, do not resuscitate (DNR) order or medical power of attorney.

(g) Documentation of tasks performed or not performed and the dated signatures of the provider and individual or the individual's authorized representative, verifying the service delivery upon its completion. The individual or the individual's authorized representative's signature of choice will be documented on the individual's PCSP and will include any of the following: a handwritten signature, initials, a stamp or mark, or an electronic signature.

(h) Progress notes signed and dated by the caregiver, documenting all communications with the case manager, treating physician, other members of the team, and documenting any unusual events, and the general condition of the individual.

(i) A discharge summary, signed and dated by the departing supervisor of the caregiver, at the point the caregiver is no longer going to provide services to the individual, or when the individual no longer needs SFC services. The summary should include documentation regarding progress made toward achievement of goals as specified on the individual's PCSP and indicate any recommended follow-ups or referrals.

(C) Limitations for SFC services include the following:

(1) SFC services will not be authorized to medically unstable or medically complex individuals as a substitute for care provided by an RN, LPN, licensed nurse, or other licensed health professional.

(2) SFC services will not be provided on the same day as the following services are delivered, unless allowable according to paragraph (F)(2) of this rule:

(a) Homemaker as described in rules 5160-31-05 and 173-39-02.8 of the Administrative Code.

(b) Personal care services as described in rule 5160-46-06 or personal care as described in rule 173-39-02.11 of the Administrative Code.

(c) Choices home care attendant service as described in rules 5160-58-04 and 173-39-02.4 of the Administrative Code.

(d) Home care attendant service as described in rules 5160-44-27 and 173-39-02.24 of the Administrative Code.

(e) Out-of-home respite as described in rules 5160-44-17 and 173-39-02.23 of the Administrative Code.

(D) The caregiver will provide SFC for only one individual, unless authorized to provide services in a group setting for up to three individuals who reside at the same address. When SFC is provided to more than one individual at the same address, the provider may only bill seventy-five percent of the maximum allowable payment rate for each individual.

(E) Parents of minor children, spouses, and other relatives with a legal representative designation may provide SFC as direct care workers in accordance with requirements outlined in 5160-44-32 of the Administrative Code.

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(F) The maximum allowable payment rates and procedure codes for SFC are listed in rule 5160-46-06 of the Administrative Code.

(1) When a full day of SFC is authorized, no additional services described in paragraph (C) of this rule are permitted to be authorized on the same calendar day.

(2) When a one-half day of SFC is authorized, up to two hours combined of the services described in paragraph (C) of this rule may be provided on the same calendar day.

(G) Individuals agree to and cooperate with monthly care management agency contacts. Contacts may be a combination of telephonic and in-person visits, with no more than sixty calendar days between in-person visits.