

## Assisted Living Waiver Update March 2008

### Waiver Amendment

The CMS approval for the waiver amendment has been granted. The waiver appendices that were amended are attached.

Upon the receipt of the approval, ODJFS moved forward with final filing rules to be effective on March 22, 2008. ODJFS legal determined that the waiver's authorizing statute (5111.091) is sufficiently prescriptive to begin enrolling these consumers in advance of the rule's effective date.

Rule links:

<http://aging.ohio.gov/rules/otherrules.html> ODJFS rules

<http://aging.ohio.gov/rules/proposed.html> ODA rules

ODJFS has prepared a CRIS-E flash bulletin, issued 3/13/08, to notify county case workers of this waiver amendment approval and to inform them that they may immediately approve the enrollment of consumers once their eligibility is established. A copy of the flash bulletin is included.

The following is a summary of the significant changes resulting from an approved waiver amendment.

### **Expand Eligibility to include Current Residents of an RCF**

Appendix B-1

Rule 5101:3-33-03 Eligibility for the AL HCBS waiver

Rule 5101:3-33-04 Enrollment Process for AL HCBS waiver

### Practice Implications

A current resident of any Ohio residential care facility is eligible to Apply for the waiver

Examples of Evidence of six month residency include payment records and date on the resident agreement .

A new resident agreement, compatible with the waiver program, should be executed.

Consumer must reside in an ODA certified RCF in order to receive waiver services.

The living unit must meet physical space requirements outlined in Rule 173-39-02.16 and be approved for use in the waiver.

Double occupancy is allowed as long as it is requested by the consumer at the time of assessment and there is evidence of an existing relationship.

Prior to enrollment, an assessment and care plan is completed for each current resident.

Enrollments of current resident will be tracked by documenting the living Arrangement in the Wait List Maintenance table.

The PASRR screen is not required for a current resident enrolling on the waiver.

Physician certification for the level of care determination is required.

Payment to the provider is not retroactive and begins on the date of enrollment.

### **Eliminate UnSchedulable Need criteria**

Appendix B-1

#### **Practice Implications**

None

### **Revisions to Community Transition Services**

Appendix C-3

Rule 173-39-02.17 Community Transition Service (CTS)

Rule 5101:3-1-06.5 HCBS waivers: assisted living

Rule 5101:3-33-07 AL HCBS waiver rate setting

#### **Practice Implications**

The service definition was expanded and includes "activities to arrange for and procure needed resources."

The time frame is expanded to 90 days from the date of initial enrollment.

The unit is a per job bid rate. The bid includes the cost of the items and the cost to arrange for and procure the items.

The current AL provider will begin the per job bid process with the effective date of the rules.

The CTS may be provided by any ODA-certified long term care agency provider or non-agency provider.

The AL provider is still required to be certified to deliver the CTS service.

Case manager will review the bids with the consumer. No separate documentation requirements for the bid review.

The identified CTS provider and the items to be obtained will be included in the care plan.

The CTS is a lifetime benefit and may only be used one time.

“Initial” enrollment is the first enrollment in the AL waiver.

### **Use of Living Units located on a Specialized Care Unit**

Appendix G-2  
Rule 173-39-02.16

#### Practice Implications

The living unit must meet physical space requirements outlined in Rule 173-39-02.16 and be approved for use in the waiver.

The living units on a specialized care unit may not have locks on the doors. It is appropriate to recommend these units for waiver use.

When making a recommendation for certification, the PAA will identify the living units located on a specialized care unit.

The need for a specialized care unit is documented in PIMS Assessment/Behavior/Implication field. Under additional comments, the case manager will document the physician determination has been obtained for the consumer’s need for a specialized care unit.

The care plan will document the authorization of a living unit on a specialized care unit.

The physician determination has been obtained for the consumer's need for a specialized care unit results in a Tier III assignment.

Consumers who are not cognitively impaired, and choose to reside in a private occupancy living unit on a specialized care unit, must be able to enter and exit the unit without assistance.

The care plan will document the consumer's choice to reside on a specialized care unit and the provider's responsibility to educate the consumer on entering and exiting without assistance.

This information will be an agenda item at the following meetings:

March 25 Quality Framework Video Conference,  
March Provider Certification Workgroup (tentative)  
April 25 Clinical Roundtable

### ODJFS Guidance related to Client Liability Questions

#### **How should pro-ration of liability be handled when a consumer leaves the NF to enroll in the AL waiver?**

*Response: Counties are not to pro-rate a consumer's patient liability if they leave a nursing facility to enter the assisted living waiver. The individual is still considered "institutionalized" (per 5101:1-39-24(B)(14)) albeit in a community setting. A waiver budget is to be completed by the case worker for the month of discharge from the facility.*

*Per OAC 5101:1-33-24(E)(2), The long term care facility must refund overpayments of patient liability to the individual. Following the reimbursement to the consumer by the facility, the facility can bill the full per diem amount for the dates services were rendered to the consumer prior to the date of discharge. By doing so, Medicaid will reimburse the facility at the billed amount.*

*The change from a facility patient liability budget may not be a negative action for the consumer. If that is the case, it does not require prior notice from the CDJFS; however the consumer must be issued notice of the change in calculation of their patient liability.*

#### **How is liability handled when an AL consumer has a short-term stay in NF?**

*Response: Medicaid uses a 30 day period (not necessarily a calendar month but 30 days) of institutionalization as a benchmark for recalculating a consumer's budget. If the consumer is in NF for less than 30 days there will be no change in PL as the consumer's budget will not be recalculated. As a result, the consumer will pay, as scheduled, their patient liability amount to the assisted living facility.*

*The nursing home, when they submit their bill to the state, will reflect that zero patient liability had been collected from the consumer. The facility can bill the full per diem amount for the dates services were rendered to the consumer prior to the date of discharge, and Medicaid will reimburse the full per diem rate to the nursing facility.*

**How is liability handled when an AL consumer's short-term stay in a NF crosses months?**

*Response: (Same as above) Medicaid uses a 30 day period institutionalization as a benchmark for recalculating a consumer's budget. If the consumer is in NF for less than 30 days there will be no change in PL as the consumer's budget will not be recalculated. As a result, the consumer will pay, as scheduled, their patient liability amount to the assisted living facility.*

*The nursing home, when they submit their bill to the state, will reflect that zero patient liability had been collected from the consumer. As stated above, Medicaid will reimburse the full per diem rate to the nursing facility.*

**Provider Billing**

The Assisted Living Waiver provider may bill for services on the day of admission and the day of discharge from the facility.

The established room and board payment is the maximum amount a provider can collect from an Assisted Living Waiver consumer.

The room and board payment may not be increased in order to "upgrade" the living unit from a studio unit to a one-bedroom unit.

The room and board payment holds the living unit during the consumer's temporary absence from the facility.

The facility may not charge the waiver consumer an additional fee to hold the living unit during a temporary absence.

The facility may not ask the waiver consumer to waive their right to a 30 day discharge notice (ORC 3721.16)

**Double Occupancy Guidelines**

The intent of the waiver program is to provide single occupancy living units to support the principles of privacy, choice, and independence.

The criteria for determining when double occupancy is allowed continues to be:

- ✓ Was double occupancy requested by the consumer at the time of the assessment and
- ✓ Is there evidence of an existing relationship.

It is appropriate to certify a companion room configuration (2 rooms and a bathroom or a 2 bedroom unit for use by a **single** waiver consumer or for use when the waiver consumer is requesting a double occupancy that meets the criteria outlined above.

Scenarios which don't meet the criteria for double occupancy

A consumer want to share a room which already has a resident and both are agreeable to the arrangement can the consumer move in? **No.**

A consumer is resides alone in a "double" (2 bedroom or companion suite) and the facility asks if another resident can move in and the consumer is agreeable? **No.**

### Scripps Evaluation

Face to Face Resident Satisfaction Interviews with current AL waiver consumers will be conducted the end of May and early June 2008. The facilities and consumers to be interviewed will receive introductory letters describing the survey activities and time frames. The survey instrument is similar to the RCF Residential Satisfaction survey recently conducted by Vital Research.

The annual NF/RCF survey conducted by Scripps on behalf of ODA includes a special module that addresses current issues impacting the long term care industry. The 2008 survey special module will focus on the Assisted Living waiver. The survey questions will give the facilities the opportunity to report barriers to participation in the waiver. This web-based survey is expected to be distributed in April 2008.

### MISC

The draft of the 2007 Residential Care and Assisted Living Compendium is available for review at <http://aspe.hhs.gov/daltcp/reports/2007/07alcom.pdf>.

The ad hoc monitoring administrative review conference calls will be completed on 3/18/08. The final summary, originally planned for release on 3/14/08, will be distributed by 3/28/08.

Save the Date: The Assisted Living Clinical Roundtable is scheduled for Friday, April 25, from 10:00-3:00.

