

DRAFT

RESPITE CARE SERVICES

I. APPLICABILITY

This policy applies to:

- A. People receiving Developmental Disabilities Administration funded services through its Traditional or Self-Directed Services Delivery Model;
- B. Their families and/or legal representatives; and
- C. Coordinators of Community Services; Self-Directed staff, vendors, Support Brokers; Financial Management and Counseling Services agencies; DDA providers; and DDA staff.

II. IMPLEMENTATION DATE

- A. This policy begins 30 days after posting and overrides any other policies or guidance related to Respite Care Services.
- B. In the event of a public health emergency or state of emergency, this policy can be overruled by any and all federal authorities.

III. PURPOSE

This policy describes the DDA's requirements and guidance for Respite Care Services funded through a DDA Medicaid Waiver Program or State funds.

IV. DEFINITIONS

- A. "Behavior Support Plan" or "BSP" is a written plan designed to modify behavior through the use of clinically accepted techniques that:
 - 1. Is person-centered and trauma-informed;
 - 2. Is based on:
 - a. Positive Behavior Supports; and

- b. The results of a Functional Behavioral Assessment;
and
- c. Includes a description of the problem behavior, along with a specific reason as to why the problem behavior occurs.

B. "Camp" means either:

- 1. Any state-certified overnight or youth camp governed by Title 14, Subtitle 4 of the Health-General Article; or
- 2. Other providers of outdoor or recreational activities approved by the DDA to provide Respite Care Services.

C. "Coordination of Community Services" are targeted case management services to help people receiving and or requesting services funded by the DDA. Targeted case management services are provided in accordance with, [COMAR 10.09.48](#)

D. "Coordinator of Community Services" or "CCS" is an individual who provides Coordination of Community Services. They can be either an employee or a contractor of a DDA Provider of Coordination of Community Services.

E. "Department" is the Maryland Department of Health.

F. "DDA" is the Developmental Disabilities Administration.

G. "DDA Medicaid Waiver Program" is one of three Medicaid Home and Community-Based Waiver Programs operated by the Developmental Disabilities Administration (DDA) that serve eligible children and adults with intellectual and developmental disabilities. These programs are approved by the Centers for Medicare & Medicaid Services and include the:

- 1. Family Supports Waiver;
- 2. Community Supports Waiver; and
- 3. Community Pathways Waiver.

- H. "DDA Provider" is an individual or entity, licensed or certified by the Maryland Department of Health, that provides DDA-funded services to people in accordance with the DDA's requirements.
- I. "Direct Support Services" are services provided directly to a person that help them keep, learn, or improve skills and daily functioning.
- J. "Electronic Visit Verification" or "EVV" is the technology that electronically verifies and records time associated with the delivery of services so that services are delivered at the right time, in the right place and to the right person.
- K. "Financial Management and Counseling Services" or "FMCS" [formerly called Fiscal Management Services or FMS] are services provided to support a person using the DDA Self-Directed Services Model in using their budget authority and, if applicable, employer authority. FMCS services include, but are not limited to:
1. Processing claims for payment for Waiver Program Services in accordance with the person's self-directed budget allocation; and
 2. Verifying that the DDA provider, vendor, or direct support staff meet all qualifications to provide the Waiver Program Service.
- L. "Legal guardian" is either:
1. A natural or adoptive parent of a person under the age of 18; or
 2. A person who has been appointed by a court order as guardian of the person.
- M. "Legally Responsible Person" is an individual who has a legal obligation under the provisions of Maryland law to care for another individual. This includes:
1. A parent of a minor (either natural or adoptive), legal guardian; or

2. An individual otherwise legally responsible for the care of a minor (such as, a foster parent or relative appointed by court).
- N. "LTSS*Maryland*" is an electronic information system, developed and supported by the Department. It is used by the DDA, CCS, and DDA Providers to create, review, and maintain records regarding;
1. An person's eligibility status for DDA-funded services, and
 2. The person's Person-Centered Plan, services, and funding authorized by the DDA.
- O. "Organized Health Care Delivery System (OHCD)" is a public or private organization that delivers health services. OHCDs are approved by the Department of Health to provide Waiver Program services to a person in accordance with [COMAR 10.22.20](#)
- P. "Person" is an individual who receives DDA-funded services.
- Q. "Person-Centered Plan" or "PCP" is a written plan, developed through a planning process, driven by the person with a developmental disability to:
1. Identify their goals and preferences;
 2. Identify services to support them to pursue their personally defined outcomes in the most integrated community setting;
 3. Direct the delivery of services that reflect their personal preferences and choice; and
 4. Identify their specific needs that must be addressed to ensure their health and welfare.
- R. "Reasonable and customary rates" are rates paid as staff wages, provider and vendor rates. Rates standards are approved by the DDA based on the type of Waiver service provided and individualized needs of the person.

- S. "Relative" is a natural or adoptive parent, step-parent, or sibling of an applicant or person who is not also a legal guardian or Legally Responsible Person.
- T. "Respite Care Services" or "Respite" is short-term care that provides a break to families, primary caregivers, and people getting DDA funded-services from their daily routines, in accordance with this policy.
- U. "Self-Directed Services Delivery Model" or "SDS Delivery Model" is a model of service delivery that the DDA provides through its Waiver Programs. In the SDS Model the person (not the provider) has:
 - 1. The power and responsibility for overseeing, coordinating and directing the services they have been approved to receive;
 - 2. Budget authority over how the Medicaid funds are spent to purchase authorized services; and
 - 3. Employer authority to recruit, hire, train, and supervise the staff and service providers they want to hire.
- V. "Team" is a group of people, chosen by a person or their legal guardian, who participate in the development of their Person-Centered Plan, along with the person and the CCS.
- W. "Traditional Services Delivery Model" is a service delivery model that the DDA provides through its Waiver programs. In the Traditional model the person chooses a DDA Provider who is responsible for overseeing, coordinating, and providing their approved services.
- X. "Waiver Program Service" is a service funded by a DDA-operated Medicaid Waiver program.

V. POLICY

Respite is short-term care intended to give families or other caregivers and the person receiving services a break from their daily routines and their daily caregiving responsibilities.

VI. STANDARDS

A. Respite Care Services include:

1. Direct support services;
2. Medication administration, provided in accordance with Maryland Board of Nursing regulations; and
3. Implementation of a Behavior Support Plan, if applicable;
4. Overnight supports; and
5. For a person enrolled in the Self-Directed Services Delivery Model, travel reimbursement, benefits, and leave time for their direct support staff.

B. Exclusions

Respite Care Services do not include funding for any fees or other costs associated with Respite Care, including:

1. Membership fees at a recreational facility;
2. Community activities;
3. Insurance fees;
4. The costs of ongoing day care while the person's parent or legal guardian is at work;
5. Vacations; or
6. Habilitative support services.

C. Respite Care can be provided in:

1. A person's own home;
2. The home of a relative, neighbor, or friend;
3. A home of a DDA certified respite care provider;
4. A licensed community residential site;

5. State-certified overnight or youth camps, as per [COMAR 10.16.06](#); and
6. Other settings and camps as approved by DDA.

D. Criteria to be Eligible

1. A person may be eligible to receive funding for Respite Care Services if:
 - a. They are enrolled in either the Self-Directed Services Delivery Model or the Traditional Services Model;
 - b. They have an identified need for this service, which is written in their PCP;
 - e. All other available funding sources have been explored, considered, and deemed not appropriate prior to accessing DDA funding for this service. These include but are not limited to:
 - (1) Maryland Medicaid State Plan;
 - (2) Division of Rehabilitation Services (“DORS”);
 - (3) Centers for Independent Living;
 - (4) State Department of Education; and
 - (5) Department of Human Services.
 - f. The request for funding of this Waiver Program Service meets all requirements in this policy, guidance, and the DDA Medicaid Waiver Program.

E. Special Service Requirements and Limitations

1. Someone who lives with the person may be the respite provider, as long as they are:
 - a. Not the person who normally provides care for the person; and

- b. Not contracted or paid to provide any other DDA founded services to the person.
2. A person may receive Respite Care services on the same day that they receive:
 - a. Other non-residential waiver services, only if the services are provided at different times;
 - b. Services that include care and supervision, only if the services are provided at different times. These include:
 - (1) Medicaid State Plan Personal Care Services, as described in [COMAR 10.09.20](#);
 - (2) [Attendant Care Program](#); and
 - (3) [In-Home Aides Services Program](#).
3. Respite Care Services are not available to a person receiving support services in:
 - a. Community Living-Enhanced Supports;
 - b. Community Living-Group Home; or
 - c. Supported Living services.
4. Respite may include overnight supports, but overnight supports may not comprise the entirety of the service provided.
5. Respite Care Services may not exceed 720 total hours of hourly and daily hours within the PCP year unless otherwise authorized by the DDA.
6. The total cost for camp may not exceed \$7,248 each PCP year.
7. For a person enrolled in Self-Directed Services Delivery Model,

- a. The person or their designated representative is responsible for supervising, training, and determining the frequency of services and supervision of their direct service workers.
- b. Respite Care Services include:
 - (1) The costs of training the person's direct support staff and the hours the employee is being trained, including First Aid and Cardiopulmonary Resuscitation certifications; and
 - (2) Travel reimbursement, benefits, and leave time for the person's direct support staff, within reasonable and customary standards by the DDA policies and compliance with federal, State and local laws.

F. Requirements To Be Paid to Provide Services

- 1. A Provider of Respite Care Services must be a:
 - a. Licensed Community Residential Services Provider;
 - b. Agency Respite Care Provider;
 - c. Camp; or
 - d. Respite Care Supports Professional.
- 2. Respite Care Services Providers must meet the following licensure and certification requirements:
 - a. A Community Residential Services Provider providing services in a residential site must be licensed by the Office of Health Care Quality;
 - b. An agency providing Respite Care Services must be certified in accordance with the DDA regulations, policy, guidance, and the DDA-operated Medicaid Waiver Program application; and

c. Respite Care Camp Providers must:

- (1) Be a certified Organized Health Care Delivery Services provider;
- (2) Have State certification and licenses as a camp, including overnight and youth camps as per [COMAR 10.16.06](#), unless otherwise approved by the DDA; and
- (3) Be DDA approved.

3. Respite Care Supports Professionals must:

- a. Be at least 16 years old;
- b. Possess current first aid and CPR certification;
- c. Pass a criminal background investigation, and a child protective services background check if working with a person under the age of 18, and any other required background checks and credentials verifications per the Waiver application;
- d. Receive training by the person/family on participant-specific information, as applicable (including preferences, positive behavior supports, when needed, Person-Centered Plan, and disability-specific information);
- e. Complete training designated by DDA;
- f. Have a valid driver's license, if the using a vehicle while providing this service;
- g. Have automobile insurance for a vehicle used while providing this service; and
- h. An unlicensed staff who administers medication or performs delegable nursing tasks must be certified by the Maryland Board of Nursing (MBON) as Medication Technicians, except if the participant and their medication administration or nursing tasks

qualifies for exemption from nursing delegation under [COMAR 10.27.11](#);

4. Respite Care Services provided in the person's home or the home of a relative, neighbor, or friend does not require licensure or certification.
5. Under the Traditional Services Delivery Model, the Respite Care Services Provider must:
 - a. Ensure that staff meet all qualifications as outlined in the approved DDA Medicaid Waiver Program application at the time of service delivery; and
 - b. Verify the credentials, and experience of all Respite Care Services Providers with whom they contract or employ initially and prior to delivery of services;
 - c. Maintain a copy of the licenses, credentials, and documented experience of all Respite Care Services Providers;
 - d. Present a copy of the licenses, credentials, and documented experience of all Respite Care Services Providers to the DDA, upon request; and
 - e. Keep documentation and records regarding delivery of services in accordance with the applicable laws, regulations, policies, and guidance, and the DDA-operated Medicaid Waiver Program application.
6. Under the Self-Directed Service Delivery Model all qualifications must be met:
 - a. As outlined in the approved DDA Medicaid Waiver Program application at the time of service delivery;
 - b. As confirmed by the Financial Management and Counseling Services (FMCS) agency; and
7. People in the Self-Directed Services Delivery Model and their FMCS agencies must keep documentation and records

regarding delivery of services in accordance with the applicable laws, regulations, policies, and guidance, and the DDA Medicaid Waiver Program application.

8. Required documentation for Respite Care Services provided in each setting shall include the following:
 - a. For non-camp settings a service note must be:
 - (1) Included for each continuous span of units that document caregiver relief;
 - (2) Written, signed, and dated by the person providing the respite and by the person's caretaker.
 - b. For camps, the provider must document verification that the respite camp was provided (an affirmative verification) and paid.

G. Rates/Billing

1. Rates shall be reasonable, customary, and necessary, as determined by the person's needs and recommended by their team.
2. Providers of Respite Care Services and FMCS Agencies must follow authorization and documentation in accordance with the [DDA Guidelines for Service Authorization and Provider Billing Documentation](#).
3. Rates under the Traditional Service Delivery Model are posted on the [DDA Rates and Invoices](#) webpage and [LTSSMaryland](#) webpage.
4. People in the Self-Directed Service Delivery Model determine pay rates based on the reasonable and customary rates posted on the [DDA Self-Directed Forms](#) webpage.
5. Under the Traditional Service Delivery Model, Respite Care Services are billed in LTSSMaryland or PCIS2, based on [DDA guidance for Operating in PCIS2 and LTSSMaryland](#).

6. Under the Self-Directed Service Delivery Model the person must submit invoices as per their FMCS agency's policies and practices.
7. Respite Care Services staff, with the exception of relatives, must be compensated overtime pay as per the Fair Labor Standards Act from the self-directed budget.
8. Respite Care Services are reimbursed in the following units:
 - a. 15-minute intervals, for services provided in the person's home or non-licensed respite provider's home;
 - b. Daily, for services provided in a licensed residential site; or
 - c. Reasonable and customary fee, for a camp meeting applicable requirements.

H. Legally Responsible Individuals, Legal Guardians, or Relatives Requirements

1. A Legally Responsible Person, spouse, or legal guardian cannot be paid, either directly or indirectly, to provide Respite Care Services.
2. A relative (who is not a spouse), may be paid to provide this service when:
 - a. The relative is the choice of the person, which is supported by the team;
 - b. There is a lack of qualified staff or providers to meet the person's needs;
 - c. When the relative or another relative, Legally Responsible Person, or legal guardian is not also serving as the person's Support Broker or designated representative directing services on behalf of the person;

- d. The relative provides no more than 40-hours per week of the service, unless approved by the DDA;
 - e. The relative has the unique ability to meet the needs of the person (e.g., has special skills or training, like nursing license); and
 - f. These are in the person's PCP.
3. The following safeguards must be met and documented in the person's PCP:
- a. Choice of the person's relative as the provider truly reflects the person's wishes and desires;
 - b. The provision of services by the relative is in the best interests of the person and their family;
 - c. The provision of services by the relative is appropriate and based on the person's identified support needs;
 - d. The services provided by the relative will increase the person's independence and community integration;
 - e. Steps that will be taken to expand the person's circle of support so that they are able to maintain and improve their health, safety, independence, and level of community integration on an ongoing basis if the relative is no longer be available;
 - f. A written agreement that identifies people, beyond family members, who will support the person in making their own decision; and
 - g. The relative must sign a service agreement to provide assurances to DDA that they will implement the PCP and provide the services in accordance with applicable federal and State laws and regulations governing the program.

VII. LEGAL REFERENCES

- A. [Family Supports Waiver](#)
- B. [Community Pathways Waiver](#)
- C. [Community Supports Waiver](#)
- D. [COMAR 10.09.20](#)
- E. [COMAR 10.09.48](#)
- F. [COMAR 10.16.06](#)
- G. [COMAR 10.22.20](#)
- H. [COMAR 10.27.11](#)

VIII. RELATED POLICIES

[Residential Services](#)

IX. REFERENCE MATERIALS

- A. [DDA - Service Authorization and Provider Billing Documentation Guidelines](#)
- B. [Maryland Department of Disabilities Attendant Care Program](#)
- C. [Maryland Department of Human Services In-Home Aides Services Program](#)

X. ATTACHMENTS

At a Glance - Respite Care Services