

3304-4-02

**Personal care assistance program.**

(A) The purpose of the program described in this rule shall be to provide funds to pay for personal assistance services to enable eligible persons with severe physical disabilities to work and/or to live independently. RSCOOD shall administer this program.

(1) When sufficient funds are available, those found eligible shall be served based on the rank order of priority groups listed below:

(a) The first priority group ~~has three levels and shall include the following persons who are employed~~ shall include persons who are competitively employed by meeting the definition of competitive employment; according to paragraph (D) of rule 3304-4-01 of the Administrative Code and who need personal assistance services to maintain employment.

~~(i) Persons competitively employed thirty five hours or more per week.~~

~~(ii) Persons competitively employed between twenty and thirty four hours per week.~~

~~(iii) Persons competitively employed who meet the definition of competitive employment according to paragraph (D) of rule 3304-4-01 of the Administrative Code.~~

(b) The second priority group shall include persons who are ready for employment but cannot accept a job unless personal assistance services are available. Persons may participate in this priority group for a maximum of eighteen months. Participants eligible in this category must demonstrate active job seeking activity. Should participants not be able to demonstrate active job seeking activity, these persons may lose eligibility in this category, even if a portion of the eighteen months remains. The eighteen months time limit may be extended for persons participating in and making satisfactory progress in a coordinated vocational rehabilitation plan. Should participants exhaust the allowed eighteen months in this category, participants may not re-enter this category at a later time unless there is significant change in the participant's employment situation or vocational goal.

(c) The third priority group shall include persons who are self-employed but not earning competitive wages. Participants may be considered eligible without earning a minimum wage equivalent income provided they are currently operating the business and have a viable business plan that supports the continued growth of the business. The business plan shall include specific benchmarks to establish measurable progress within the

business. The participant shall be evaluated annually to ensure that the benchmarks are being achieved. If, after an annual evaluation, the participant is not achieving the benchmarks, the participant shall be assessed for eligibility under another priority level. Participants may participate in this category for a lifetime maximum of sixty months.

(e)(d) The ~~third~~fourth priority group shall include ~~trainees~~persons who are preparing for employment and who need personal assistance services to continue training that is state licensed/accredited, if applicable, and leading to a specific employment vocational goal. Persons may participate in the priority group for the duration of training provided the participant continues to maintain satisfactory progress according to the ~~grade standard~~standards established by the program. ~~Satisfactory~~Proof of satisfactory progress shall be ~~demonstrated with grade/progress reports and demonstration of continued enrollment~~provided to the program upon request. Persons within this priority group shall have a maximum of eighteen consecutive months to complete each academic year of post-secondary training as defined by the degree program. Participants in other training programs shall ~~also be allowed extended time, not to exceed over~~have a maximum of one and one half times the usual duration of the training program to complete the program. ~~The program coordinator or program manager shall request, with justification, approval from the program director or his/her designee to extend the time limit.~~

(d)(e) The ~~fourth~~fifth priority group shall be closed to ~~open enrollment and/or transition from other priority groups unless a person becomes ineligible for support in a higher priority group due to an adverse change in his or her medical condition or disability or is currently participating under the fourth priority group for the purpose of independent living as they transition back to employment or to other alternate resources. Persons transitioning because of an adverse change in his or her medical condition or disability may participate for a period not to exceed six months over the lifetime of the participant~~new applicants.

(i) This priority group may contain participants who, due to an adverse change in medical condition, no longer meet the requirements to remain in a higher priority group. If funding allows, persons may receive personal assistance services in this group for a maximum of six months over the lifetime of the participant.

(2)(ii) A participant who was receiving personal assistance services as of May 1995 under the ~~fourth~~fifth priority group for the purpose of independent living who had been grandfathered shall continue to remain on the personal care assistance program longer than the

maximum indicated in paragraph ~~(A)(1)(d)~~(A)(1)(e) of this rule, providing documentation is submitted and alternative resources have been explored and are unavailable.

Documentation shall include but is not limited to copies of denial letters resulting from application for assistance services from other resources/agencies, copies of "home care plans" or other types of documentation confirming comparable resources are available.

Additional resources available but not accessed due to personal choice are still counted as comparable resources and PCA hours can be reduced accordingly.

~~(3) Participants who are self-employed may be considered as employed without earning a minimum wage equivalent income provided they have developed and present a viable business plan. The business plan shall include specific benchmarks to establish measurable progress within the business. The participant shall be evaluated annually to ensure that the benchmarks are being achieved. If after an annual evaluation the participant is not achieving the benchmarks, the participant shall be moved to another priority level. Participants may participate in this category for a lifetime maximum of sixty months.~~

(B) ~~RSC's~~OOD's duties and responsibilities for administration and management of the program shall include but not be limited to the following:

~~(1) Establishing an advisory committee for the program.~~

~~(2)~~(1) Establishing a maximum hourly reimbursement rate for wages to pay an assistant.

~~(3)~~(2) Establishing a maximum reimbursement rate for related employer ~~taxes~~costs.

(3) Establishing the maximum number of hours of funding available to eligible participants.

(4) ~~Choosing~~Determining the need for community rehabilitation programs and, if warranted, negotiating terms with them for operating the program at the local level, as described in paragraphs (D) to (D)(8) of this rule.

(5) Assisting community rehabilitation programs in locating persons with severe physical disabilities to apply for personal assistance services.

(6) Determining a person's eligibility to receive personal assistance services under the program based on the assessment performed by the community rehabilitation program as described in paragraphs ~~(D)(2) to (D)(4) and (D)(6)~~(D) of this rule.

(7) Evaluating the program biannually to ensure efficiency and to determine ways to improve its effectiveness.

(8) Monitoring the program for fraud or abuse.

(9) Determining eligibility for the program and assigning participants into priority groups.

(10) Evaluating each participant annually to determine the continued need for personal care assistance services.

(C) To be eligible for the personal care assistance program, a person shall:

(1) Be an Ohio resident eighteen years old or older with a severe physical disability.

(2) Not be receiving personal assistance services through ~~RSC's~~OOD's vocational rehabilitation program which duplicates services funded through the personal care assistance program.

(3) ~~Utilize~~Exhaust all available resources before receiving services from the personal care assistance program. Participants may receive personal assistance services from the personal care assistance program ~~and~~in addition to other resources, but may not bill for personal assistance services for the same hours from more than one resource.

(4) Require not less than eight consecutive weeks of personal assistance services.

(5) Be willing to receive services within Ohio unless otherwise approved.

(6) Require no more than four hundred fifty-five hours of personal assistance services per quarter from the personal care assistance program. If the person needs more than this maximum, he/she shall be eligible for assistance under the personal care assistance program only when he/she can pay for the additional services needed or can arrange to have them provided by another source. These additional resources shall be documented with the Program.

- (7) Have an adjusted income of six hundred per cent or less of the federal poverty level for ~~an individual~~the documented family size.
  - (8) Be capable of instructing and supervising an assistant about his or her needs as described in paragraph (D)(3) of this rule or arranging for such supervision or instruction.
  - (9) Be capable of enough self-direction to live outside an institution, within his/her family unit or independently with this support.
  - (10) Agree that his/her need for continuing personal assistance shall be subject to periodic reevaluation, and agrees to an in-person evaluation at least once every calender year.
  - (11) Participants must also demonstrate the ability to follow program guidelines, including but not limited to: regular billing; compliance with submitting required documentation by established time lines; and updating the program on any and all changes in income and employment, job seeking, and progress in training within thirty days of the change.
- (D) To be eligible for selection by RSCOOD to operate this program at the local level, a community rehabilitation program shall be nonprofit and, as its purpose, shall exist at least in part to provide services to persons with disabilities. The community rehabilitation program's duties and responsibilities shall include but not be limited to:
- (1) Locating persons who have a severe physical disability and who may be eligible for the program.
  - (2) Pre-screening the ~~consumer~~participant according to the criteria in paragraphs (C)(1) to ~~(C)(10)~~(C)(11) of this rule by using a checklist and guide to personal assistance services as prescribed by RSCOOD.
  - (3) Assessing the ~~consumer's~~participant's need to receive personal assistance services through this program; the assessment shall include but not be limited to determining the ability to instruct and supervise assistants, and to maintain schedules and records or to arrange for such functions to be carried out.
  - (4) Assessing the ~~consumer's~~participant's eligibility for the personal care assistance program.

- (5) Providing assistant management training to participants to include, but not be limited to, training in how to recruit assistants, how to conduct interviews and screen applicants, how to supervise and instruct assistants on tasks required, etc.
  - (6) Assisting [RSCOOD](#) to annually evaluate each participant's need for continued personal assistance services.
  - (7) Serving the community as an information resource on personal assistance services.
  - (8) Providing information and referral services about other financial assistance and/or social service programs that assist persons who have severe physical disabilities toward employment and/or independent living.
- (E) An assistant's responsibilities shall include but not be limited to:
- (1) Agreeing on terms of work specified with the participant.
  - (2) Performing the tasks specified by the participant.
  - (3) Performing tasks with care to avoid injury and/or discomfort to the participant.
  - (4) Reporting to work as scheduled.
  - (5) Maintaining the privacy of the participant.
- (F) The participant's responsibilities shall include but not be limited to:
- (1) Screening, interviewing, selecting, instructing, and supervising assistants or arranging for such functions to be carried out.
  - (2) Paying the assistant wages in a timely manner agreed upon by the participant and the assistant. Payment to assistant, at the latest, should occur no later than two weeks after receipt of reimbursement from [RSCOOD](#).
  - (3) Investigating the need for compliance with employer tax laws.
  - (4) Completing the annual review within specified time frames.

- (5) Ensuring that assistants perform tasks that are related to the participant's Activities of Daily Livings and not beyond that scope, such as performing work tasks or other activities that are not considered Activities of Daily Living.
- (6) Maintaining financial documentation for audit purposes (e.g., attendant time sheets, copies of canceled checks to attendants, etc.)
- (7) Participants must also demonstrate the ability to follow program guidelines, including but not limited to: regular billing; compliance with submitting required documentation by established time lines; and updating the program on any and all changes in income and employment, job seeking, and progress is training within thirty days of the change.
- (G) A participant shall be reimbursed ~~employer costs per assistant hour billed to RSC, and shall also receive payment~~ for employer costs per assistant hours billed to OOD and for wages paid for personal assistance services. The ~~rate of employer costs and the maximum rate of payment for such assistance under this program shall be as determined by RSC. The amount the~~ amount the participant ~~receives as reimbursement for wages paid for personal assistance services~~ is reimbursed shall be based on a percentage of the ~~maximum that is based upon the~~ person's adjusted annual income determined as follows.
- ~~The percentage shall be as follows:~~
- (1) ~~One~~OOD pays one hundred per cent for an individual whose adjusted annual income ~~which~~ which is three hundred per cent or less of the federal poverty level for ~~an individual~~the household size.
  - (2) ~~Eighty-five~~OOD pays eighty-five per cent for an individual whose adjusted annual income ~~which~~ which is three hundred one per cent to three hundred fifty per cent of the federal poverty level for ~~an individual~~the household size.
  - (3) ~~Seventy~~OOD pays seventy per cent for an individual whose adjusted annual income ~~which~~ which is three hundred fifty-one per cent to four hundred per cent of the federal poverty level for ~~an individual~~the household size.
  - (4) ~~Fifty-five~~OOD pays fifty-five per cent for an individual whose adjusted annual income ~~which~~ which is four hundred one per cent to four hundred fifty per cent of the federal poverty level for ~~an individual~~the household size.
  - (5) ~~Forty~~OOD pays forty per cent for an individual whose adjusted annual income ~~which~~ which is four hundred fifty-one per cent to five hundred per cent of the

federal poverty level for ~~an individual~~the household size.

- (6) ~~Twenty-five~~OOD pays twenty-five per cent for an individual whose adjusted annual income ~~which~~ is five hundred one per cent to five hundred fifty per cent of the federal poverty level for ~~an individual~~the household size.
- (7) ~~Ten~~OOD pays ten per cent for an individual whose adjusted annual income ~~which~~ is five hundred fifty-one per cent to six hundred per cent of the federal poverty level for ~~an individual~~the household size.
- (8) Not eligible for the program if adjusted annual income is greater than six hundred per cent of the federal poverty level for ~~an individual~~the household size.