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**CHAPTER 75-60  
COUNCIL ON DEVELOPMENTAL DISABILITIES**

**SUBCHAPTER 75-60.1  
COMMONWEALTH RESPITE SERVICES PROGRAM  
ADMINISTRATIVE RULES AND REGULATIONS**

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Subchapter Authority: 1 CMC § 2051-2053; 1 CMC § 2097; 3 CMC §§ 2432, 2435.

Subchapter History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: 1 CMC §§ 2051-2053 create an Office of the Governor within the Commonwealth government, charged with the duties provided by law.

1 CMC § 2097 allocates the Council on Developmental Disabilities to the Office of the Governor. Prior to the August 3, 2000 enactment of this section, the Council was allocated to the Department of Public Health. Executive Order 94-3, § 305(b).

3 CMC § 2432 orders the Council on Developmental Disabilities to establish the Commonwealth Respite Services Program to “develop and encourage statewide coordination of respite services and to work with community-based

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private nonprofit or for-profit agencies, public agencies, and interested citizen groups in the establishment of community lifespan respite services programs.” 3 CMC § 2435 gives the Council or its designee authority to adopt regulations for the adoption and administration of the Commonwealth Respite Services Program.

The Commission renumbered the sections of the July 2014 regulations to comply with standard NMIAC formatting pursuant to 1 CMC § 3806(a).

### **Part 001 - General Provisions**

#### **§ 75-60.1-001 Authority**

Under and by virtue of the authority vested in the CNMI Council on Developmental Disabilities (“Council”) pursuant to 3 CMC § 2435 and Section 6 of Public Law 14-36, the Council hereby promulgates the rules and regulations in this chapter.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

#### **§ 75-60.1-005 Purpose**

The Council promulgates the rules and regulations in this chapter to effectively administer the Commonwealth Respite Service Program (“CRSP”) pursuant to Public Law 14-36 in its role as an advisory body to the CBO.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission removed an extra period at the end of this section pursuant to 1 CMC § 3806(g).

#### **§ 75-60.1-010 Community Respite Services Program**

The Council shall be responsible for the development of the CRSP in order to provide the CBO guidance in the regulation, management, and supervision of respite care. It shall collaborate with other government agencies, for profit and non-profit organizations, in further developing the CRSP in order to meet the community’s needs.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted a comma after the word “management” pursuant to 1 CMC § 3806(g).

#### **§ 75-60.1-015 Definitions**

Applicability. The words and terms as used in this chapter shall have the meanings indicated and shall include the plural unless the context clearly indicates otherwise. The definitions herein provided shall supplement the public laws referenced in § 75-60.1-001.

(a) “Activities of daily living” means the tasks performed routinely by a person to maintain physical functioning and personal care, including transferring, moving about, dressing, grooming, toileting, and eating.

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- (b) “Caregiver” means an individual providing ongoing care to one who is unable to care for him or herself.
- (c) “CBO” means the community based organization who shall be responsible for regulating, managing, and supervising the delivery of respite care services to the community.
- (d) “Client” means a dependent person at risk of being institutionalized and presently unable to live independently.
- (e) “CNMI respite care state plan” means the development of and the administration of a comprehensive and coordinated respite care services for qualified clients in the CNMI, in accordance with all the requirements of Public Law 14-36.
- (f) “Community respite services program” (CRSP) means a program that:
- (1) is operated by a community based private non-profit or for-profit agency or a public agency that provides respite services;
  - (2) receives funding through the Commonwealth Respite Services Program established under Section 3 of this Act\*;
  - (3) serves an area in one or more of the three senatorial districts;
  - (4) acts as a single local source for respite services information and referral; and
  - (5) facilitates access to local respite services.
- (g) “Council” means the CNMI Council on Developmental Disabilities.
- (h) “Eligible recipients” means the primary caregivers of target dependents. The determination of eligibility for services is based on the needs of the family, with special attention given to the needs of the individual receiving care and the primary caregiver.
- (i) “Economic resources” means the client’s own resources together with other types of assistance, financial or otherwise, which are available to a client and would help maintain the client in the client’s own home.
- (j) “Federal Poverty Income Guidelines” or “FPIG” means the financial amount set annually by the U.S. Department of Health and Human Services (“HHS”) in the Federal Register in order to simplify the poverty thresholds to be used in administrative setting such as to determine financial eligibility for certain federal programs.
- (k) “Gross income” means any benefit which is received by the client as a result of current or past labor or services (before deductions), business activities which generates recurring income, or as a contribution from persons, organizations, or assistance agencies such as wages and salary.
- (l) “Health status” means the client’s medical condition based on a diagnosis of the client’s existing illnesses or disabilities, the medical care and medications needed in response to the diagnosis, and an assessment of the client’s ability to perform daily tasks.

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- (m) “Home” means the client’s residence which may not include a nursing facility, hospital, assisted living facility, penal institution, detention center, school, intermediate care facility for persons with mental retardation, or an institution that treats individuals who have mental diseases.
- (n) “Home environment” means the client’s dwelling unit, building, or house and its furnishings and the neighborhood in which the client resides.
- (o) “Non-categorical care” means care without regard to age, income, ethnicity, race, nationality, special need or situation, or other status of the individual receiving care.
- (p) “Needs assessment and evaluation” means a procedure for evaluating a client for respite care.
- (q) “Paid provider” means an individual or agency who meets the requirements to be a provider and who will provide services for a fee.
- (r) “Personal adjustment” means the indicators of an individual’s mood, judgment, and memory which are essential to remaining independent.
- (s) “Primary caregiver” means an individual who provides a client with continuous at-home care at no cost.
- (t) “Provider” means an individual or agency selected by a family or caregiver to provide respite services to an individual with special needs.
- (u) “Respite care” means temporary relief for primary caregivers to prevent individual and family breakdown, institutionalization of the person being cared for, or abuse by the primary caregiver as a result of stress from giving continuous support and care to a dependent person.
- (v) “Respite services” include but are not limited to:
- (1) Recruiting and screening of paid and unpaid respite care providers;
  - (2) Identifying local training resources and organizing training opportunities for respite care providers;
  - (3) Matching families and caregivers with providers and other types of respite care;
  - (4) Providing vouchers, payment, subsidies, loans, grants, and linking families and caregivers with payment resources;
  - (5) Identifying, coordinating, and developing community resources for respite services;
  - (6) Quality assurance and evaluation;
  - (7) Assisting families and caregivers to identify respite care needs and resources;
  - (8) Assisting with the development of existing or needed facilities for respite care services.
- (w) “Social resources” means support or assistance available to a client from family, friends, neighbors, community organizations such as churches, civic groups, or senior centers, or other agencies providing services to residents of the community.

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(x) “Target dependents” means children with developmental disabilities residing at home, or adults with developmental disabilities who reside with aging parents, children, and older individuals who are medically fragile, have developmental disabilities, dementia, and other conditions and who reside at home of primary caregiver such as adult children, grandchildren, or other care-giving relative.

(y) “Unpaid provider” means an individual or agency who meets the requirements to be a provider and who will provide services without a fee.

\* So in original.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission corrected the capitalization of the words “community based organization” in subsection (c), “respite care state plan” in subsection (e), “income” in subsection (k), “provider” in subsections (q) and (y), and the words at the beginning of subsections (f)(1) through (f)(5) and (v)(1) through (v)(9) pursuant to 1 CMC § 3806(f). The Commission inserted a comma after the word “managing” in subsection (c) and corrected periods to semicolons at the ends of subsections (v)(1) through (v)(8) pursuant to 1 CMC § 3806(g).

### **Part 100 - Clients**

#### **§ 75-60.1-101 Persons Eligible for Respite Care**

Depending on availability of funds, a client may be eligible for respite care when the following criteria are met:

- (a) The client’s needs assessment and evaluation plan indicates a need for respite care; OR
- (b) Income: The client has a monthly gross income below the FPIG for a family of the same size; AND
- (c) Residency: The client must be living in the CNMI with the intention of making the CNMI his/her home permanently. Acceptable documentation includes, but is not limited to, utility payment receipts, house rental/mortgage receipts, etc.; AND
- (d) Citizenship: Only the citizenship and immigration status of the client is required for eligibility purposes. The client must be a U.S. citizen or a qualified alien, as defined in Personal Responsibility Work Opportunity Act (PRWORA), to be eligible for respite care services. Acceptable documentation includes, but is not limited to, birth certificate or passport; AND
- (e) The individual has a primary caregiver.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission corrected the capitalization of the words “a” in the initial paragraph and “gross” in subsection (b) pursuant to 1 CMC § 3806(f). The Commission corrected the spelling of the word “criteria” in the initial paragraph pursuant to 1 CMC § 3806(g).

**§ 75-60.1-105 Income Guideline for Qualification**

(a) In order to qualify for respite care, an applicant, primary care provider, family member, or authorized person may fill out an application for the potential client. The CBO shall use the FPIG for a family of the same size as the guideline for qualification. However, an applicant who is a recipient of any CNMI or federal assistance program automatically qualifies for respite care. The client's monthly gross income shall be used to determine an applicant's eligibility.

(b) Exclusions from Gross Income. Excluded from the computation of gross income are the following:

- (1) Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self employed income;
- (2) Withdrawals of bank deposits;
- (3) Loans;
- (4) Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;
- (5) Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:
  - (i) Income tax refunds, rebates, credits;
  - (ii) Retroactive lump sum Social Security, SSI, or unemployment compensation benefits;
  - (iii) Retroactive annual adjustment payments in the Department of Veterans Affairs' (VA) disability pensions;
  - (iv) Lump sum inheritance or insurance payments;
- (6) Refunds of security deposits on rental property or utilities;
- (7) Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;
- (8) Capital gains;
- (9) Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
- (10) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
- (11) Home produce utilized for home consumption;
- (12) The value of coupon allotment under the Food Stamp Act of 1977, as amended;
- (13) The value of USDA donated or surplus foods;
- (14) The value of supplemental food assistance under the Child Nutrition Act of 1966 (42 U.S.C. §§ 1771-1789) and the special food service program for children under the National School Lunch Act, as amended;
- (15) Benefits received from the special supplemental food program for women, infants, and children (WIC) (Pub. L. No. 92-443);
- (16) Allowances and payments to participants in programs, other than on-the-job training, under the Work Investment Act (WIA) of 1998 (20 U.S.C. § 9201);
- (17) The earned income of individuals participating in on-the-job training program under the Job Training Partnership Act (JTPA) of 1982 (25 U.S.C. § 640d-640d-28) who are between 18 and 19 years of age and under the parental control of another household member;

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- (18) Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
- (19) Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No. 99-498;
- (20) Payments or allowances under any federal or local laws for the purpose of energy assistance;
- (21) Assistance payments received as a result of a declared federal major disaster or emergency from the Federal Emergency Management Agency (FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;
- (22) Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical Agent Orange (Pub. L. No. 101-201);
- (23) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4636);
- (24) Payments received under the Radiation Exposure Compensation Act (Pub. L. No. 101-426) to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
- (25) Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older American Act of 1965 (Pub. L. No. 100-175);
- (26) Payments to volunteers derived from the volunteer's participation in the following program authorized by the Domestic Volunteer Service Act of 1973 (42 U.S.C. §§ 5011, 4951-4958):
  - (i) Foster grandparent program;
  - (ii) Senior companion program; and
  - (iii) Volunteers in service to America (VISTA) and AmeriCorps program.
- (27) Military re-enlistment bonus;
- (28) Any other payments made in accordance with territory and federal laws that preclude the payments from being counted as income.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The initial paragraph was undesignated in the July 2014 regulation. The Commission designated it as subsection (a) pursuant to 1 CMC § 3806(a). The Commission corrected the capitalization of the words "gross income" in subsection (a), "Social Security" in subsection (b)(5)(ii), and "Federal Emergency Management Agency" in subsection (b)(21) pursuant to 1 CMC § 3806(f). The Commission inserted a comma after the word "member" in subsection (a), corrected punctuation at the ends of subsections (b)(8), (b)(12), and (b)(19), and corrected the reference to the Department of Veterans Affairs in subsection (b)(5)(iii) pursuant to 1 CMC § 3806(g).

### **§ 75-60.1-110 Payment for Respite Care**

- (a) Method of computing respite care payment
  - (1) The Council shall establish the hourly rate to be paid for respite care.
  - (2) The respite care provider shall provide verification of the number of hours of respite care provided to the client, certified by the client or the client's primary care provider to the CBO.
  - (3) The CBO will compute the monthly projected cost of the respite care based on:

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- (i) Hours of respite care provided;
  - (ii) The client or the family's share of the cost of respite care in accordance with the sliding fee scale as set forth in the current state plan.
  - (4) The projected respite care payment rate shall be calculated by:
    - (i) The hours of respite care provided to the client;
    - (ii) The respite care amount to be paid each month of eligibility shall be the respite care hourly rate, times the number of hours of respite care provided, minus the co-payment amount, if any (hourly rate x respite care hours provided - co-payment amount = payment to respite care provider).
  - (5) Eligibility for respite care subsidized payment shall be suspended for any month the total monthly income exceeds the income criteria for the size of the family as adopted by the Council.
- (b) Respite Care Payments
- (1) The payment rate shall be established by the current state plan.
  - (2) Respite care payments shall be an expense that is reimbursed to the respite care provider.
  - (3) The client or primary care provider's co-payment shall be established by the current sliding fee scale as set forth in the current state plan.
  - (4) The CBO shall issue a payment invoice and an attendance form to respite care providers who must then secure the client or their primary care provider's signature to be submitted for a reimbursable payment for respite care services rendered the previous month. The attendance form must show the number of hours the client is in the care of the service provider. Failure to submit a completed and signed payment invoice and/or an attendance form shall result in no payment.
  - (5) A completed and signed payment invoice and/or attendance form must be received by the CBO within the first three working days of the month. Invoices received after the third working day of the month will be considered late and will not be processed until the following month.
  - (6) The client or the primary care provider shall pay their portion of the respite care cost.
  - (7) All clients or primary care providers will pay their co-payments directly to the CNMI Treasury.
  - (8) The client or primary care provider shall be responsible for any respite care costs in excess of the maximum respite care rates as set forth in the current state plan.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission corrected the capitalization of the words "sliding fee scale" in subsections (a)(3)(ii) and (b)(3), "state plan" in subsections (b)(1) and (b)(3), and "payment invoice" in subsection (b)(4) pursuant to 1 CMC § 3806(f). The Commission struck the figure "3<sup>rd</sup>" from subsection (b)(5) pursuant to 1 CMC § 3806(e).

### § 75-60.1-115 Priority

- (a) Priority for Services. Priority for respite care services is determined in the following order:
  - (1) Clients or primary care providers who are classified as no to very low income or below the FPIG level.
  - (2) Clients or primary care providers who are classified as no to very low income or below the FPIG level with special needs children.

- (3) Clients or primary care providers who are homeless.
- (b) Priority of Applications.
  - (1) If requests for respite care services cannot be honored because of the unavailability of services, applicants whose demonstrated need includes immediate danger of leaving their home or family shall be the first to receive respite care services regardless of the date of application.
  - (2) All other eligible applicants for respite care who cannot receive service because of its unavailability shall be placed on a waiting list in order of date of application for services. A change in an applicant's condition may warrant a change in priority.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-120 Respite Care Settings**

Respite care services may be provided in the following settings:

- (a) In the client's home as long as the primary caregiver lives in the client's home;
- (b) In the primary caregiver's home;
- (c) In the respite care provider's home; or
- (d) With prior approval from the CBO, in another type of community setting such as child or adult day care.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-125 Clients with Diverse Families**

Family diversity is reflected in each family's unique characteristics such as race, ethnicity, language, family composition, socio-economic status, and religious beliefs. It is important that respite programs and providers respect these characteristics.

- (a) Each family's cultural, racial, and linguistic identities are acknowledged, respected, and supported.
- (b) Each family's spiritual beliefs are acknowledged and respected.
- (c) Diversity in family composition is acknowledged and supported in the provision of respite services (e.g. grandfamilies; foster and adoptive families; single parent families; lesbian, gay, bisexual, and transgender families (LGBT)).
- (d) Every effort is made to incorporate the family's cultural and linguistic needs into respite services.

Source: National Respite Guidelines, October 2011

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted commas after the words “respected” in subsection (a) and “bisexual” in subsection (c) pursuant to 1 CMC § 3806(g).

**Part 200 - Providers**

**§ 75-60.1-201 Types of Providers**

- (a) Paid providers are those who will provide services for a fee to be paid by the CBO.
- (b) Unpaid providers are those who provide services whose fees will be paid by someone other than the CBO.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-205 Provider Qualifications**

The CBO shall screen potential provider applicants as follows:

- (a) Conduct provider interviews, contact references, and require criminal background checks;
- (b) Assess provider knowledge about human development and developmentally appropriate activities;
- (c) Ensure that providers have work or volunteer experience working with the population they are serving (i.e., family caregivers, children with disabilities, adults with dementia, families in crisis);
- (d) Ensure that providers are physically and emotionally able to provide the care (e.g., by assessing work/volunteer experience, asking specific open-ended interview questions, and checking work and character references).

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission corrected the capitalization at the beginnings and the punctuation at the ends of subsections (a) through (d) pursuant to 1 CMC § 3806(f) and (g).

**§ 75-60.1-210 Recruiting Providers**

- (a) The CBO shall collaborate with other agencies, local or federal, for profit or non-profit organizations to recruit and screen providers. If providers have been screened by an organization other than the CBO, the providers must, at a minimum, have been qualified with established criteria by the other organization.
- (b) Recruitment campaigns for providers are carefully planned to encourage potential providers to respond to the need for respite.

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- (c) Family caregivers are encouraged to identify their own respite providers whenever appropriate from formal or informal supports.
- (d) Efforts will be made to recruit respite providers from various ethnic, racial, linguistic, and cultural groups, as well as from socially diverse families (e.g., grandfamilies; foster and adoptive families; single parent families; lesbian, gay, bisexual, and transgender families (LGBT)) in order to provide a diverse workforce.
- (e) The CBO shall recruit providers who can effectively address specific family and care recipient needs (e.g., fluent in family's first language, trained to work with individuals with dementia).
- (f) The CBO shall recruit respite providers representing both male and female role models for children and youth.
- (g) The CBO shall recruit respite providers who live in areas easily accessible to families needing services, or plan to address resulting transportation issues if this is not possible.

Source: National Respite Guidelines, October 2011

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted a comma after the word "bisexual" in subsection (d) pursuant to 1 CMC § 3806(g).

### **§ 75-60.1-215 Hiring and Retaining Providers**

- (a) The CBO will develop job descriptions for all paid and volunteer respite positions, including the knowledge and skills needed to perform the designated job.
- (b) The CBO will require that respite providers and volunteers submit a job application, provide references, and participate in an interview.
- (c) The CBO will conduct criminal background checks.
- (d) The CBO will provide to all respite providers a contract outlining provider and/or volunteer roles and responsibilities.
- (e) Once hired, respite providers and volunteers will be given a general program orientation and participate in pertinent training activities.
- (f) The CBO will provide ongoing support and supervision, including evaluating and providing feedback on the performance of each provider and volunteer.

Source: National Respite Guidelines, October 2011

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History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

### § 75-60.1-220 Volunteer Providers

- (a) The CBO will use volunteers to provide a number of roles including clerical, fund raising, grounds improvements, direct services, and any other role if qualified.
- (b) The CBO will dedicate administrative staff time to careful recruitment, training, retention, and supervision of volunteers.
- (c) Volunteers are recruited from the general community targeting potential volunteers through entities such as senior organizations, colleges and universities, corporate volunteer programs, service organizations, and faith based communities.
- (d) The CBO shall coordinate with any institution of higher learning, such as the Northern Marianas College (“NMC”), or trade institute to encourage a volunteer program to be implemented for classroom credit for all student volunteers. If possible, the CBO shall encourage NMC to implement an internship and/or apprentice program for NMC students.
- (e) If volunteers are providing direct services, the CBO will plan for a comprehensive orientation, training, ongoing support and supervision, as well as specific volunteer job roles.
- (f) Volunteers are carefully matched with respite program needs. For example, more complex medical needs among children or adults with disabilities, or older care recipients with later stages dementia, may require more highly trained or more closely supervised volunteers to provide respite.
- (g) The CBO will plan for ways they can recognize volunteers for the services they perform (e.g., recognition events, participation in staff training).

Source: National Respite Guidelines, October 2011

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted commas after the words “services” in subsection (a) and “retention” in subsection (b) and struck a superfluous apostrophe in subsection (a) pursuant to 1 CMC § 3806(g).

### § 75-60.1-225 Provider Relationship with Client Prohibited

A client’s spouse, parent, or child may not be a respite care provider. Another family member may be a provider if the family member is neither living with the client nor receiving compensation as the client’s caregiver.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

## Part 300 - Family Caregivers

**§ 75-60.1-301 Family Caregiver Defined**

Family caregivers are those persons, whether related to the client or not, who provide care to the client.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-305 Family Caregiver Involvement**

(a) Family caregiver involvement encompasses the inclusion of family caregivers in all aspects of quality, accessible respite service delivery. It is important to clearly define family roles so that they can be effectively involved in activities such as surveying caregiver needs, planning respite services, and program evaluation. However, no information deemed confidential by local or federal law shall be disseminated about clients.

(b) The CBO shall provide information about respite services and options to physicians, health care, social work, disability, and aging service providers to facilitate family caregivers having access to respite early in the caregiving experience.

(c) The CBO shall assist family caregivers in identifying their particular need(s) for services through timely, volunteer caregiver assessments or through informal discussion to ensure that they gain the greatest benefits from respite.

(d) Family caregivers are involved in service design and implementation.

(e) The CBO shall solicit family caregiver input regarding service delivery on an ongoing basis (e.g., needs assessments, service satisfaction surveys, advisory boards).

(f) The CBO and family caregivers shall work together to clearly define family roles and responsibilities within the services being provided.

(g) The CBO shall develop respite care services so that they are family-centered (take into consideration the needs of all family members).

(h) The CBO shall build on the strengths and resources of families.

(i) The CBO shall plan respite care services so that it can be available early in the caregiving experience and in a frequently and therapeutically sufficient dosage to positively affect the family caregiver's health and well-being.

(j) Family caregivers receive appropriate emotional support and reassurance about having their loved one in care.

(k) Family caregiver preferences for service entry, location, hours, activities and delivery, are respected and accommodated, as appropriate.

(l) Families have access to their loved ones while they are in care.

(m) Family caregivers are encouraged to value their respite time and engage in respite activities that will maximize their benefits and outcomes.

Source: National Respite Guidelines, October 2011

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The initial paragraph in the July 2014 regulation was undesignated. The Commission designated it as subsection (a) pursuant to 1 CMC § 3806(a).

## **Part 400 - Respite Service Administration**

### **§ 75-60.1-401 Administration**

The CBO shall administer the respite program with the advice and supervision of the Council. These rules and regulations shall be construed liberally in order for the CBO to provide respite care services.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission corrected the spelling of the word “advice” pursuant to 1 CMC § 3806(g).

### **§ 75-60.1-405 Plan for Respite Care Services**

The CBO in cooperation with the client, the primary caregiver, and the respite care provider shall develop a plan for respite care services. The plan shall be based on the client’s needs assessment and evaluation. The CBO shall retain a copy of the plan in the client’s file. The plan shall be reviewed every six months. The plan shall contain the following information;

- (a) The total number of respite care hours approved in each quarter;
- (b) The scheduled use of hours;
- (c) A description of the approved tasks or duties of the respite care provider; and
- (d) The cost-sharing amount determined by the sliding fee scale as adopted by the Council.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

### **§ 75-60.1-410 Covered Services**

Covered services may include any of the following:

- (1) Companionship;
- (2) Involvement in the client’s activities of daily living;

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- (3) Recreational activities;
- (4) Meal preparation;
- (5) Transportation;
- (6) Light housekeeping and personal hygiene tasks only when care is required over several days and as long as the services are essential to the client's health and comfort in the home; and
- (7) Additional tasks or duties specified in the client's plan for respite care service.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

### **§ 75-60.1-415 Services Not Covered**

Services which are not covered under respite care includes skilled nursing services, however the administration of prescribed and over the counter medications shall be followed according to the client's primary medical provider.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

### **§ 75-60.1-420 Needs Assessment and Evaluation for Respite Care**

The CEO shall assess the respite care service needs of the client with the goal of improving or stabilizing the client's condition thereby lessening or eliminating the client's dependence on the respite care services. The CEO shall reassess the client's condition and the continued need for services at least once every six months. In determining continuing need, the CEO shall consider the client's ability to complete tasks and whether other resources are available to provide the needed services. The needs assessment and evaluation shall also consider information provided by the client in the following areas:

- (a) Social resources;
- (b) Home environment;
- (c) Health status;
- (d) Activities of daily living;
- (e) Personal adjustment; and
- (f) Economic resources.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

### **§ 75-60.1-425 Limit on Number of Service Hours**

An individual qualifying for services under this chapter may not receive more than 210 hours of respite care services a quarter.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-430 Supervision**

Supervision is a means of overseeing one's work, offering guidance and verbal and emotional support to those who are providing care either on a paid or volunteer basis. Such teaching and debriefing opportunities enhance the quality of the care being provided.

- (a) All respite providers, whether paid or volunteer, receive ongoing supervision and support.
- (b) An administrative staff person is assigned the duty of maintaining consistent and ongoing contact with respite providers to answer questions, listen to their concerns, and share in the joys of providing respite services.
- (c) Regular staff meetings and in-service training are available to all respite providers.
- (d) In case of emergencies while an individual is in care, respite providers have access to an administrative staff person at all times.
- (e) Whether performing their work in the company of co-workers or in the isolation of their home or the family's home, respite providers have access to peer support to share concerns and receive support.
- (f) Respite providers and respite programs exceed state licensing requirements, as needed, in determining the ratio of caregivers to providers. Some individuals in care, especially young children or the elderly with dementia, frequently have additional needs for assistance and supervision. Respite providers can more readily respond to those needs if they have only a few individuals in their care.
- (g) Respite programs determine the provider/care recipient ratio by assessing the individualized needs of each care recipient. In practice this will mean that some care will be appropriately provided in small groups, and, in some instances, care will be provided on an individual basis.
- (8) Documentation and reporting procedures are in place to reflect the respite provider service location if it is different from the immediate supervisor's location.

Source: National Respite Guidelines, October 2011

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-435 Training**

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Once respite programs and volunteers have been recruited and hired, it is essential that they receive pre-service training as well as regular in-service training on topics relevant to their work. Training activities can be designed to include an initial orientation, group training, individualized training on specific care recipients' needs, and periodic in-service training to enhance provider skills. Ideally, more than one method of training is offered to address various provider learning styles and needs.

(a) Family caregivers and adult care recipients are involved in determining training content and in supervising or assisting in the training of providers, as appropriate. Training can involve formal group presentations, as well as direct training of respite providers by family caregivers and/or adult care recipients in the home.

(b) Respite providers and volunteers receive training which not only enhances their skills, but also lets them know they are a valued member of a respite team, worthy of receiving information to improve the quality of their work.

(c) Respite providers and volunteers receive training prior to providing care. Training is individualized to meet the needs of providers. In some situations, providers may already possess the requisite skills and background. In general, the following topics are included in training for providers. Additional topics may need to be added in specific circumstances:

- (1) Overview of respite services and importance of respite as a valued service;
- (2) Overview of family caregiving issues, including but not limited to the positive and negative physical, emotional and familial consequences of caregiving;
- (3) Caregiver stress and resultant outcomes;
- (4) Confidentiality;
- (5) Communication skills;
- (6) Disability awareness;
- (7) Respect for the independence and abilities of the care recipient;
- (8) Child, adolescent, and adult development and aging issues, as appropriate for the respite setting;
- (9) Conditions of individuals which respite providers are likely to encounter, such as disabilities, chronic or terminal illnesses, dementia, and those at risk of abuse and neglect;
- (10) Family diversity (cultural, ethnic, racial, linguistic, family composition);
- (11) Effective ways to work with families of individuals with disabilities and chronic or terminal illnesses and/or families in crisis;
- (12) Planning and preparing developmentally appropriate activities; maintaining appropriate routines and schedules for those in care;
- (13) Policies and procedures for the respite program, including expectations for reporting and documentation;
- (14) Emergency procedures (First Aid, CPR, program emergency protocols);
- (15) General information about the spread of infectious disease, and universal precautions to be used in the care of individuals to avoid the spread of disease;
- (16) Program procedures for the administration of medication and other health related tasks; special hair and skin care;
- (17) Abuse and neglect detection and reporting protocol for mandated reporters;
- (18) Crisis intervention; issues in domestic violence and substance abuse;

(19) Behavior management; what behaviors to expect from individuals with specific disabilities such as autism, and managing individuals with difficult behaviors, including dementia, and of those whose family is experiencing a crisis.

Source: National Respite Guidelines, October 2011

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission corrected the punctuation at the ends of subsections (c)(1) through (c)(18) and added a comma after the word “dementia” in subsection (c)(9) pursuant to 1 CMC § 3806(g).

**§ 75-60.1-440 Discontinuance of Services**

The CBO may discontinue services provided under this chapter when the Council exhausts its resources for providing the services, the client can no longer benefit from the services provided, or the client’s or the provider’s health or safety would be jeopardized if the services were continued. Specific reasons for discontinuing services may include the following:

- (a) The client’s medical needs may require daily nursing. Indications are the client experiencing falls, failing to take needed medication, or suffering from uncontrolled tuberculosis or two people are needed to move the client;
- (b) The client is sexually harassing, verbally abusive, threatening, or combative towards the person delivering services;
- (c) The client’s care plan exceeds the limits of the in-home care limits;
- (d) The client’s living environment presents health and fire hazards or unsafe conditions for the person delivering services;
- (e) The client’s family and individuals from other support systems have discontinued providing care or are unable to provide the care needed;
- (f) The client is not in compliance with the case service plan;
- (g) The client’s cognitive ability is limited to the extent that the client is not oriented to person, place, or time;
- (h) The client is not capable of self-preservation in an emergency;
- (i) The client’s condition has improved and no longer meets program eligibility;
- (j) The client failed to contribute to the program as required;
- (k) The client refuses to allow the service provider on the premises;
- (l) The client or others in the household are under the influence of drugs or alcohol; or

- (m) The client has pornographic materials exhibited in the home.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

**§ 75-60.1-445 Payment Sources to Assist Families**

The CBO shall implement a procedure in order to provide information to interested persons on ways to obtain vouchers, payments, subsidies, loans, grants, and linking families and caregivers with payment sources for respite services.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted a comma after the word “loans” pursuant to 1 CMC § 3806(g).

**§ 75-60.1-450 Community Resources**

- (a) The CBO shall identify community resources that could help alleviate or subsidize the cost respite care for the CBO, client, or primary caregivers.

- (b) The CBO shall coordinate with other government agencies, private for or non-profit organizations, and any other entity to ensure a community approach is taken in providing respite care.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted commas after the words “client” in subsection (a) and “organizations” in subsection (b) pursuant to 1 CMC § 3806(g).

**§ 75-60.1-455 Community Collaboration**

- (a) The CBO shall collaborate with other agencies, for and non-profit organizations, and human service organizations to enhance service provision and program evaluation when planning and providing respite programs.

- (b) The CBO shall develop service options that meet the needs of family caregivers who are unserved or underserved and which interface effectively with existing service systems, programs, and natural supports.

- (c) The CBO shall engage in interagency collaboration to enhance the array of respite services, thus providing family caregivers with appropriate choices and options.

- (d) The CBO shall consider collaboration on training, funding, sharing technical expertise and support, and the development of multiple community service options with partner agencies.

- (e) The CBO shall collaborate with other interested organizations to raise funds to subsidize respite program needs.

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History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The initial paragraph was undesignated in the July 2014 regulation. The Commission designated it as subsection (a) pursuant to 1 CMC § 3806(a). The Commission inserted a comma after the word “organizations” and removed a comma after the word “providing” in subsection (a) pursuant to 1 CMC § 3806(g).

### **§ 75-60.1-460 Access to Program**

The CBO shall ensure the respite care program is available to everyone, regardless of race, ethnicity, gender, or religious belief on all 3 Senatorial Districts.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The Commission inserted a comma after the word “gender” pursuant to 1 CMC § 3806(g).

### **§ 75-60.1-465 Data Collection of Participants for Program Improvement and Distribution of Information**

(a) In order to enhance respite service evaluation, the CBO shall form partnerships with state and community agencies (e.g., institutions of higher education, state agencies) to collaborate on needs assessments and program evaluation. This information can be used by the CBO for budgetary purposes, grants application, program improvement, or for any other purpose.

(b) The CBO shall collect the following information:

- (1) Reasons family caregivers are seeking services;
- (2) Impact of services on family caregiver stress and quality of life;
- (3) Impact on caregiver interpersonal relationships;
- (4) Caregiver work-related secondary benefits;
- (5) Family caregiver requests for service changes, expansion, and new service development;
- (6) Family caregiver involvement in services;
- (7) Staff satisfaction;
- (8) Program cost-effectiveness;
- (9) Achievement of program goals and benefits;
- (10) Impact of the services on the community;
- (11) Special activities (e.g., public awareness, fundraising);
- (12) Provider and volunteer training is assessed in terms of skill levels as well as satisfaction with the training;
- (13) Units of service (i.e., numbers of care recipients and families served; hours/days of care);
- (14) Service location (e.g., home, community, hospital, group home);
- (15) Ethnicity, family composition, and primary language of families;
- (16) Requests for service;
- (17) Unmet service needs and waiting lists; and
- (18) Costs of services.

History: Adopted 36 Com. Reg. 35135 (July 28, 2014); Proposed 36 Com. Reg. 35011 (May 28, 2014).

Commission Comment: The initial paragraph was undesignated in the July 2014 regulations. The Commission designated it as subsection (a) pursuant to 1 CMC § 3806(a). The Commission inserted commas after the words

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“improvement” in subsection (a) and “composition” in subsection (b)(15) and corrected the spelling of the word “this” in subsection (a) pursuant to 1 CMC § 3806(g).