



**Mississippi Department of Mental Health**  
**Provider Bulletin**  
**Number PR0137**

**Subject: New Requirements for Family Members providing Home and Community Supports and/or In Home Respite**

**Issue Date:** 7/2/2023

**Effective Date:** 7/1/2023

**Scope**

All IDD Certified Providers for Home and Community Supports and/or In Home Respite

**Purpose**

In response to the ID/DD Waiver 5-year renewal scheduled for July 1, 2023, the Department of Mental Health (DMH) issues the following changes in requirements for family members seeking to provide Home and Community Supports or In Home Respite.

**Subject**

The following Standards are effective July 1, 2023, and replace Rule 45.2 and Rule 47.2. of the 2020 DMH Operational Standards:

Legally responsible relatives are not allowed to provide Home and Community Supports (HCS) or In-Home Respite (IHR). This includes legal guardians or legal representatives, including but not limited to spouses, parents/stepparents of minor children, conservators, guardians, individuals who hold the participant's power of attorney or those designated as the participant's representative payee for Social Security benefits. For the purposes of this requirement, relatives are defined as any individual related by blood or marriage to the participant.

Non-legally responsible relatives may provide Home and Community Supports or In-Home Respite only when the following criteria are met:

1. There is documentation that there are no other willing/qualified provider available for selection. The person's/legal representative's refusal to receive services from a qualified HCS or IHR staff is not sufficient justification for an exception.
2. The selected relative is qualified to provide service(s).
3. The person receiving the service, or another designated representative is available to sign verifying that services were rendered by the selected relative.
4. The selected relative agrees to render services in accordance with the scope, limitations, and professional requirements of the service during their designated hours.
5. The service provided is not a function that the relative or housemate was providing for the participant without payment prior to waiver enrollment.

Providers must document each family member's eligibility meets the above requirements in the staff's personnel record. Providers may use the "Qualifying Relative Questionnaire" form.

Providers employing a family member to serve as Home and Community Supports or In-Home Respite personnel, regardless of relationship or qualifications, must also maintain the following documentation in DMH Provider Bulletin #PR0137

each staff's personnel record:

1. Proof of address for the family member seeking to provide services. Proof of address is a copy of a lease, rental agreement, or utility bill that includes the person's name. A copy of the person's driver's license is not sufficient for proof of address. If required documentation cannot be obtained, the family member seeking to provide services must provide a signed and notarized affidavit that includes his/her current address.
2. Evidence the person's ID/DD Waiver Support Coordinator was notified the agency is seeking approval of a family member to provide Home and Community Supports or In-Home Respite. The person's Plan of Services and Supports (PSS) must document the family member is providing the approved service.
3. Documentation the provider has conducted drop-in, unannounced visits during the time the approved family member is providing services. These visits must occur at least two (2) times per year and must include the following:
  - a. Observation of the family member's interactions with the person receiving services,
  - b. Review of the Plan of Services and Supports and Service Notes to determine if outcomes are being met, and
  - c. Review of utilization to determine if contents of Service Notes support the amount of service provided.

A qualified family member providing Home and Community Supports and/or In-Home Respite cannot be authorized to provide more than one-hundred seventy-two (172) hours per month (or forty [40] hours per week) of one service or combination of the two services.

Support Coordinators are to educate the person/legal representative about the new waiver requirements and offer Freedom of Choice of qualifying providers of services. The person's chosen Home and Community Supports or In Home Respite provider is responsible for ensuring all Direct Care Workers (DCWs) are compliant with the new regulations. The Home and Community Supports or In Home Respite provider selected by the person/legal representative must search for qualified staff to fill the authorized hours. If no other willing and qualified staff are available at the person's recertification and the person/legal representative requests the family member continue to render services, the family member must be evaluated by the chosen provider and determined to continue to meet the qualifications outlined for the service(s).

The Department of Mental Health (DMH) and/or Division of Medicaid (DOM) reserves the right to remove a selected relative from the provision of services at any time if there is a suspicion of, or substantiation, of abuse/neglect/exploitation/fraud or if it is determined that the services are not being professionally rendered in accordance with the approved Plan of Services and Supports. If DMH/DOM removes a selected relative from the provision of services, the person/legal representative will be asked to select an alternate qualified provider.

If you have questions, contact Betty Pinion, Director of ID/DD Waiver at (601)359-5797 or email [betty.pinion@dmh.ms.gov](mailto:betty.pinion@dmh.ms.gov).

*End of Provider Bulletin*