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Reference Number: 735-02-DD

Title of Document: Relatives/Family Members Serving As Paid Providers of Respite Services

Date of Issue: December 1, 2004
Effective Date: November 1, 2004
Last Review Date: June 18, 2020
Date of Last Revision: June 18, 2020 **(REVISED)**

Applicability: DDSN Sponsored Respite Services except State
Funded/Family Arranged Respite (Includes ID/RD Waiver Funded Respite, HASCI Waiver Funded Respite or State Funded/Board Arranged)

I. Purpose:

To establish a policy regarding the payment of relatives/family members for providing respite services.

II. Policy:

Respite is defined as care provided to a DDSN eligible person when the primary support provider is absent or in need of relief from the responsibilities of care giving. Primary support providers, regardless of their relationship to the respite recipient **cannot** be paid for respite. Family members/relatives of the respite recipient may be paid to provide respite when the family member/relative is not legally responsible for the person and he/she meets all provider qualifications.

The following people shall **not** be paid for providing respite:

1. A primary support provider;
2. The spouse of the respite recipient;
3. A parent, step parent, foster parent or legal guardian of a respite recipient who is a minor;
4. A court appointed guardian of a respite recipient who is an adult;

5. Parent or step-parent of an adult respite recipient who resides in the same household as the respite recipient.

The following are examples of people who may be paid to provide respite if all other provider qualifications are met and he/she is not one of the respite recipient's primary caregivers:

- a. A parent of an adult respite recipient who does not reside in the respite recipient's household;
- b. A non-legally responsible family member (sibling, grandparent, aunt, uncle, etc.).

III. Clarifications:

For purposes of this policy, "Legally Responsible" means "Legal Guardian." S.C. Code Ann. § 44-23-10(7) (Supp. 2019), defines a guardian as a person who legally has the care and management of the person of one who is not legally competent. S.C. Code Ann. § 63-5-30 (Supp. 2019), parents are the joint natural guardians of their children.

Guardian for a child is defined as a person who legally has the care and management of a child.

For purposes of this directive, "minor" is defined as "An infant or person who is under the age of legal competence, which in South Carolina is age 18."

Non-legally responsible family members (brother, sister, grandparent, etc.) living in the same household as the Medicaid recipient may be paid for care provided.

Family members/relatives will be required to meet the training and certification requirements outlined in DDSN Respite standards.

Family members/relatives wishing to receive payment for respite services rendered must acknowledge that they are not a primary support provider of the person and that they are not legally responsible for the person.

The Statement of Legal Responsibility form may be used to document this. Respite providers are under no obligation to hire relatives/family members to provide services.

DocuSigned by:

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Robin Blackwood
Vice Chairman

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Gary Lemel
Chairman

Related Directive:

100-27-DD: Dual Relationships

To access the following attachments, please see the agency website page "Current Directives" at: <https://ddsn.sc.gov/providers/ddsn-directives-standards-and-manuals/current-directives>

Attachment A: Statement of Legal Responsibility
Attachment B: Guidance to Case Managers/Early Interventionists for Assisting with the Determination of Legal Responsibility