TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

SUBCHAPTER 1. GENERAL PROVISIONS

317:40-1-1. Home and Community-Based Services (HCBS) Waivers for persons with intellectual disabilities or certain persons with related conditions

(a) **Applicability.** This Section applies to services funded through Medicaid HCBS Waivers per Oklahoma Administrative Code (OAC) 317:35-9-5 and Section 1915(c) of the Social Security Act. Specific Waivers are the In-Home Supports Waiver (IHSW) for Adults, IHSW for Children, Community Waiver, and Homeward Bound Waiver.

(b) **Program provisions.** Each individual requesting services provided through an HCBS Waiver and his or her family or guardian, are responsible for:

(1) Accessing with ~~the~~ Oklahoma ~~Department of~~ Human Services (OKDHS) staff assistance, all benefits available under Oklahoma's Medicaid State Plan or other payment sources prior to accessing funding for those same services under an HCBS Waiver program;

(2) Cooperating in the determination of medical and financial eligibility including prompt reporting of changes in income or resources;

(3) Choosing between services provided through an HCBS Waiver or institutional care; and

(4) Reporting any changes in address or other contact information to OKDHS within thirty (30) calendar days.

(c) **Waiver eligibility.** To be eligible for Waiver services, an applicant must meet the criteria established in (1) of this Subsection and the criteria for one (1) of the Waivers established in (1) through (8) of this Subsection.

(1) **HCBS Waiver services.** Services provided through an HCBS Waiver are available to Oklahoma residents meeting SoonerCare (Medicaid) eligibility requirements established by law, regulatory authority, and policy within funding available through state or federal resources. To be eligible and receive services funded through any of the Waivers listed in (a) of this Section, an applicant must meet conditions, per OAC 317:35-9-5. The applicant:

(A) Must be determined financially eligible for SoonerCare, per OAC 317:35-9-68;

(B) May not simultaneously be enrolled in any other Medicaid Waiver program or receiving services in an institution including a hospital, rehabilitation facility, mental health facility, nursing facility, or residential care home per Section (') 1-820 of Title 63 of the Oklahoma Statutes (O.S.), or Intermediate Care facility for individuals with intellectual disabilities (ICF/IID);

(C) May not be receiving Developmental Disabilities Services (DDS) state-funded services, such as the Family Support Assistance Payment, Respite Voucher Program, sheltered workshop services, community integrated employment services, or assisted living without Waiver supports, per OAC 340:100-5-22.2; and

(D) Must also meet other Waiver-specific eligibility criteria.

(2) **In-Home Supports Waivers (IHSW).** To be eligible for services funded through the IHSW, an applicant must:

(A) Meet all criteria listed in (c) of this Section; and

(B) Be determined by the Social Security Administration (SSA) to have a disability and a diagnosis of intellectual disability; or

(C) Be determined by the Oklahoma Health Care Authority (OHCA) Level of Care

Evaluation Unit (LOCEU) to have a disability and a diagnosis of intellectual disability per SSA guidelines or a diagnosis of global developmental delay when accompanied by a Full-Scale Intelligence Quotient (FSIQ) less than or equal to seventy (70), plus or minus five (5), when under six (6) years of age as defined in the Diagnostic and Statistical Manual of Mental Disorders ~~by the Oklahoma Health Care Authority (OHCA) Level of Care Evaluation Unit (LOCEU)~~; and

(D) Be three (3) years of age or older;

(E) Be determined by the OHCA LOCEU to meet the ICF/IID Institutional Level of Care requirements, per OAC 317:30-5-122; and

(F) Reside in:

(i) A family member's or friend's home;

(ii) His or her own home;

(iii) An OKDHS Child Welfare Services (CWS) foster home; or

(iv) A CWS group home; and

(vii) Have critical support needs that can be met through a combination of non-paid, non-Waiver, and SoonerCare (Medicaid) resources available to the individual; and HCBS Waiver resources within the annual per capita Waiver limit, agreed on between the State of Oklahoma and the Centers for Medicare and Medicaid Services (CMS).

(3) **Community Waiver.** To be eligible for services funded through the Community Waiver, the applicant must:

(A) Meet all criteria listed in (c) of this Section;

(B) Be determined by the SSA to have a disability and a diagnosis of intellectual disability; or

(C) Have an intellectual ~~disability as defined in the Diagnostic and Statistical Manual of Mental Disorders~~per SSA guidelines or a related condition by DDS and be covered under the State's alternative disposition plan, adopted under Section 1919(e)(7)(E) of the Social Security Act; or

(D) Be determined by the OHCA LOCEU to have a disability and a diagnosis of intellectual disability per SSA guidelines or a diagnosis of global developmental delay when accompanied by an FSIQ less than or equal to seventy (70), plus or minus five (5), when under six (6) years of age as defined in the Diagnostic and Statistical Manual of Mental Disorders ~~or the OHCA LOCEU~~; and

(E) Be three (3) years of age or older; and

(F) Be determined by the OHCA LOCEU, to meet ICF/IID Institutional Level of Care requirements, per OAC 317:30-5-122; and

(G) Have critical support needs that can be met by the Community Waiver and cannot be met by IHSW services or other service alternatives, as determined by the DDS director or designee.

(4) **Homeward Bound Waiver.** To be eligible for services funded through the Homeward Bound Waiver, the applicant must:

(A) Be certified by the United States District Court for the Northern District of Oklahoma as a member of the plaintiff class in *Homeward Bound et al. v. The Hissom Memorial Center*, Case No. 85-C-437-E;

(B) Meet all criteria for HCBS Waiver services listed in (c) of this Section; and

(C) Be determined by SSA to have a disability and a diagnosis of intellectual disability; or

(D) Have an intellectual disability as defined in the Diagnostic and Statistical Manual of Mental Disorders or a related condition, per OAC 317:35-9-45 as determined by DDS, and to be covered under the State's alternative disposition plan adopted under Section 1919(e)(7)(E) of the Social Security Act; or

(E) Have a disability as defined in the Diagnostic and Statistical Manual of Mental Disorders by the OHCA/LOCEU; and

(F) Meet ICF/IID Institutional Level of Care requirements, per OAC 317:30-5-122, as determined by the OHCA LOCEU.

(5) **Evaluations and information.** Applicants desiring services through any of the Waivers listed in (a) of this Section participates in diagnostic evaluations and provides information necessary to determine HCBS Waiver services eligibility, including:

(A) A psychological evaluation, by a licensed psychologist that includes:

(i) A full-scale, functional and/or adaptive assessment; and

(ii) A statement of age of onset of the disability; and (iii) Intelligence testing that yields a full-scale, intelligence quotient.

(I) Intelligence testing results obtained at sixteen (16) years of age and older are considered valid of the current status, provided they are compatible with current behavior. Intelligence testing results obtained between seven to sixteen (7 to 16) years of age are considered current for four (4) years when the full-scale intelligence quotient is less than forty (40) and for two (2) years when the intelligence quotient is forty (40) or above.

(II) When an applicant is approved for an HCBS waiver with a diagnosis of global developmental delay, a new psychological evaluation must be conducted and submitted after the child reaches six (6) years of age. Re-evaluation occurs at the beginning of the plan of care year following the child's sixth (6^{th}) birthday, at which time, a diagnosis of Intellectual Disability must be confirmed to continue waiver services.

~~(II)~~(III) DDS may require a current psychological evaluation when a significant change of condition, disability, or psychological status is noted;

(B) A social service summary, current within twelve (12) months of the requested approval date that includes a developmental history; and

(C) A medical evaluation, current within one (1) calendar year of the requested approval date; and

(D) A completed Form LTC-300, ICF/IID Level of Care Assessment; and

(E) Proof of disability per SSA guidelines. When a disability determination is not made by SSA, OHCA LOCEU may make a disability determination using SSA guidelines.

(6) **Eligibility determination.** OHCA reviews the diagnostic reports listed in (2) of this subsection and makes an eligibility determination for DDS HCBS Waivers.

(7) **State's alternative disposition plan.** For individuals who are determined to have an intellectual disability or a related condition by DDS per the State's alternative disposition plan adopted under Section 1919(e)(7)(E) of the Social Security Act, DDS reviews the diagnostic reports listed in (2) of this subsection and, on behalf of OHCA, makes a determination of eligibility for DDS HCBS Waiver services and ICF/IID level of care.

(8) **Member's choice.** A determination of need for ICF/IID Institutional Level of Care does

not limit the opportunities of the person receiving services to participate in community services. Individuals are assured of the opportunity to exercise informed choice in the selection of services.

(d) **Request list.** When state DDS resources are unavailable to add individuals to services funded through an HCBS Waiver, persons are placed on a statewide Request for Waiver Services List.

(1) The Request for Waiver Services List is maintained in chronological order, based on the date of receipt of a written request for services on Form 06MP001E, Request for Developmental Disabilities Services. The applicant must submit the required documentation, per Form 06MP001E, Request for Developmental Disabilities Services, for initial consideration of potential eligibility. Active United States Armed Forces personnel, who have a pending HCBS Waiver application in another state for an immediate family member, may be placed on the list with the date they applied in the other state. The person's name is added to the list when he or she provides proof of application date from the other state.

(2) The Request for Waiver Services List for persons requesting services provided through an HCBS Waiver is administered by DDS uniformly throughout the state.

(3) An individual applicant is removed from the Request for Waiver Services List, when he or she:

(A) Is found to be ineligible for services;

(B) Cannot be located by OKDHS;

(C) Does not provide OKDHS-requested information or fails to respond;

(D) Is not an Oklahoma resident at the requested Waiver approval date; or

(E) Declines an offer of Waiver services.

(4) An applicant removed from the Request for Waiver Services List, because he or she could not be located, may submit a written request to be reinstated to the list. The applicant is returned to the same chronological place on the Request for Waiver Services List, provided he or she was on the list prior to January 1, 2015.

(e) **Applications.** When resources are sufficient for initiation of HCBS Waiver services, DDS ensures action regarding a request for services occurs within forty-five (45) calendar days. When action is not taken within the required forty-five (45) calendar days, the applicant may seek resolution, per OAC 340:2-5-61.

(1) Applicants are allowed sixty (60) calendar days to provide information requested by DDS to determine eligibility for services.

(2) When requested information is not provided within sixty (60) calendar days, the applicant is notified that the request was denied, and he or she is removed from the Request for Waiver Services List.

(f) **Admission protocol.** Initiation of services funded through an HCBS Waiver occurs in chronological order from the Request for Waiver Services List, per (d) of this Section based on the date of DDS receipt of a completed request for services, as a result of the informed choice of the person requesting services or the individual acting on the member's behalf, and upon determination of eligibility, per (c) of this Section. Exceptions to the chronological requirement may be made, when:

(1) An emergency situation exists in which the health or safety of the person needing services or of others is endangered and there is no other resolution to the emergency. An emergency exists, when:

(A) The person is unable to care for himself or herself and:

(i) the person's caretaker, 43A O.S. § 10-103:

(I) Is hospitalized;
(II) Moved into a nursing facility;
(III) Is permanently incapacitated; or
(IV) Died; and

(ii) There is no caretaker to provide needed care to the individual; or

(iii) An eligible person is living at a homeless shelter or on the street;

(B) OKDHS finds the person needs protective services due to ongoing physical, sexual, or emotional abuse or neglect in his or her present living situation, resulting in serious jeopardy to the person's health or safety;

(C) The behavior or condition of the person needing services is such that others in the home are at risk of being seriously harmed by the person. For example, when the person is routinely physically assaultive to the caretaker or others living in the home and sufficient supervision cannot be provided to ensure the safety of those in the home or community; or

(D) The person's medical, psychiatric, or behavioral challenges are such that the person is seriously injuring or harming himself or herself, or is in imminent danger of doing so.

(2) The Legislature appropriated special funds with which to serve a specific group or a specific class of individuals, per HCBS Waiver provisions;

(3) Waiver services may be required for people who transition to the community from a public ICF/IID or children in OKDHS custody receiving services from OKDHS. Under some circumstances Waiver services related to accessibility may be authorized in advance of transition, but may not be billed until the day the member leaves the ICF/IID and enters the Waiver; or

(4) Individuals subject to the provisions of Public Law 100-203 residing in nursing facilities for at least 30-continuous months prior to January 1, 1989, and are determined by Preadmission Screening and Resident Review (PASRR) evaluation conducted per Title 42 Section 483.100 of the Federal Code of Regulations to have an intellectual disability or a related condition, who are covered under the State's alternative disposition plan adopted under Section 1919(e)(7)(E) of the Social Security Act, and choose to receive services funded through the Community or Homeward Bound Waiver.

(g) **Movement between DDS HCBS Waiver programs.** A person's movement from services funded through one (1) DDS-administered HCBS Waiver to services funded through another DDS-administered HCBS Waiver is explained in this subsection.

(1) When a member receiving services funded through the IHSW for children becomes eighteen (18) years of age, services through the IHSW for adults becomes effective.

(2) Change to services funded through the Community Waiver from services funded through the IHSW occurs only when:

(A) A member has critical health and safety support needs that cannot be met by IHSW services, non-Waiver services, or other resources as determined by the DDS director or designee; and

(B) Funding is available, per OAC 317:35-9-5.

(3) Change to services funded through the IHSW from services funded through the Community Waiver may only occur when a member's history of annual service utilization was within the IHSW per capita allowance.

(4) When a member served through the Community Waiver has support needs that can be met within the per capita Waiver allowance of the applicable IHSW and through a combination of non-Waiver resources, the individual may choose to receive services through the IHSW.

(h) **Continued eligibility for HCBS Waiver services.** Eligibility for members receiving services provided through the HCBS Waiver is re-determined by the OHCA LOCEU when a determination of disability was not made by the Social Security Administration. The OHCA LOCEU determines categorical relationship to the SoonerCare disabled category according to Social Security Administration guidelines. OHCA LOCEU also approves the level of care, per OAC 317:30-5-122, and confirms a diagnosis of intellectual disability per ~~the Diagnostic and Statistical Manual of Mental Disorders.~~SSA guidelines.

(1) DDS may require a new psychological evaluation and re-determination of eligibility at any time when a significant change of condition, disability, or psychological status is noted.

(2) Annual review of eligibility requires a medical evaluation that is current within one year of the requested approval date. The medical evaluation must be submitted by the member or the individual acting on his or her behalf thirty (30) calendar days prior to the Plan of Care expiration.

(i) **HCBS Waiver services case closure.** Services provided through an HCBS Waiver are terminated, when:

(1) A member or the individual acting on the member's behalf chooses to no longer receive Waiver services;

(2) A member is incarcerated;

(3) A member is financially ineligible to receive Waiver services;

(4) A member is determined by SSA to no longer have a disability qualifying the individual for services under these Waivers;

(5) A member is determined by the OHCA LOCEU to no longer be eligible;

(6) A member moves out of state or the custodial parent or guardian of a member who is a minor moves out of state;

(7) A member is admitted to a nursing facility, ICF/IID, residential care facility, hospital, rehabilitation facility, or mental health facility for more than thirty (30) consecutive calendar days;

(8) The guardian of a member who is a minor or adjudicated adult fails to cooperate during the annual review process, per OAC 340:100-5-50 through 340:100-5-58;

(9) The guardian of a member who is a minor or adjudicated adult fails to cooperate in the implementation of the OKDHS rule or service delivery in a manner that places the health or welfare of the member at risk, after efforts to remedy the situation through Adult Protective Services or Child Protective Services were not effective;

(10) The member is determined to no longer be SoonerCare eligible;

(11) There is sufficient evidence the member or the individual acting on the member's behalf engaged in fraud or misrepresentation, failed to use resources as agreed on in the Individual Plan, or knowingly misused public funds associated with these services;

(12) The member or the individual acting on the member's behalf either cannot be located, did not respond, or did not allow case management to complete plan development or monitoring activities as required, per OAC 340:100-3-27, and the member or the individual acting on the member's behalf:

(A) Does not respond to the notice of intent to terminate; or

(B) The response prohibits the case manager from being able to complete plan development or monitoring activities as required, per OAC 340:100-3-27;

(13) The member or the individual acting on the member's behalf fails to cooperate with the case manager to implement a Fair Hearing decision;

(14) It is determined services provided through an HCBS Waiver are no longer necessary to meet the member's needs and professional documentation provides assurance the member's health, safety, and welfare can be maintained without Waiver supports;

(15) The member or the individual acting on the member's behalf fails to cooperate with service delivery;

(16) A family member, the individual acting on the member's behalf, other individual in the member's household, or persons who routinely visit, pose a threat of harm or injury to provider staff or official OKDHS representatives; or

(17) A member no longer receives a minimum of one (1) Waiver service per month and DDS is unable to monitor the member on a monthly basis.

(j) **Reinstatement of services.** Waiver services are reinstated when:

(1) The situation resulting in case closure of a Hissom class member is resolved;

(2) A member is incarcerated for ninety (90) calendar days or less;

(3) A member is admitted to a nursing facility, ICF/IID, residential care facility, hospital, rehabilitation facility, or mental health facility for ninety (90) calendar days or less; or

(4) A member's SoonerCare eligibility is re-established within ninety (90) calendar days of the SoonerCare ineligibility date.

SUBCHAPTER 5. MEMBER SERVICES

PART 11. OTHER COMMUNITY RESIDENTIAL SUPPORTS

317:40-5-155 Extensive residential supports (ERS) [NEW]

(a) **Introduction.** ERS are provided by an agency, approved by Developmental Disabilities Services (DDS), that has a valid Oklahoma Health Care Authority contract for the service.

(1) ERS provide up to twenty-four (24) hours per day of direct support services, including the provision of more than one staff when the needs of the member indicate additional supports are required.

(2) ERS provides a level of supervision necessary to keep the member safe in the home and in the community and to assist the member with obtaining desired outcomes identified in the member's Individual Plan (Plan).

(b) **Provider approval criteria**. Prospective providers of ERS must demonstrate a history of effective services and supports to persons with challenging behaviors per OAC 340:100-5-57(c), emotional challenges or community protection needs. Provider approval requires review of historical information, when available, from DDS Quality Assurance Unit and Residential Unit. The DDS director or designee must approve the location of the home prior to the implementation of services. Each prospective provider submits written documentation of:

(1) a history of services to persons who present challenging behaviors, emotional challenges, or community protection needs, including:

(A) past experience;

(B) number of persons served;

(C) provider's perspective on the greatest challenges in serving persons eligible for ERS services; and

(D) provider's philosophy for service provision;

(2) financial viability through fiscal information when requested, including the anticipated budget related to the rate for ERS services;

(3) service provision plans, including:

(A) anticipated number of homes;

(B) location;

(C) gender to be served;

(D) population to be served; and

(E) availability of psychological, psychiatric, vocational and educational services in the proposed location;

(4) plans for staffing and program coordination; and

(5) staff qualifications, including any additional training provided.

(c) **Services provided.** Services and supports are based on person-centered principles and practices and consistent with OAC 317:40-1-3.

(1) The service includes but is not limited to:

(A) program supervision and oversight, which includes:

(i) 24-hour availability of response staff to:

(I) meet schedules or unpredictable needs in a way that promotes maximum dignity and independence; and

(II) provide supervision, safety and security consistent with the program described in the member's Plan; and

(ii) staff who are available to respond to a crisis to:

(I) help ensure safety; and

(II) assist the member to self-regulate to help prevent placement disruption;

(B) behavioral support, which includes supporting the member in being a valued member of the community. Challenging interactions may include but are not limited to:

(i) physical or verbal aggression;

(ii) sexually unsafe behaviors or actions;

(iii) victimizing other people or animals;

(iv) property destruction;

(v) self-harm;

(vi) suicidal ideations or attempts; and

(vii) stealing or other illegal behavior;

(C) activities of daily living, which includes instruction, hands-on support, supervision, modeling or prompting to:

(i) eat;

(ii) bathe;

(iii) dress;

(iv) toilet;

(v) complete personal hygiene;

(vi) transfer;

(vii) complete housework;

(viii) manage money;

(ix) engage in community safety;

(x) participate in recreation;
(xi) engage in socialization;
(xii) manage health;
(xiii) manage medication; or
(xiv) attend school and other community-based educational opportunities;
(D) coordinating overall safety and supports in the home;
(E) self-advocacy training and support, which includes, but is not limited to:
(i) training and assistance in supported decision making;
(ii) accessing needed services;
(iii) asking for help;
(iv) recognizing and reporting abuse, neglect, mistreatment, or exploitation of self,
(v) responsibility for one's own actions; and
(vi) participation in all meetings;
(F) development of communication skills;
(G) assistance with:
(i) emergency planning;
(ii) safety planning;
(iii) fire, weather and disaster drills; and
(iv) crisis intervention;
(H) community access support to enhance the abilities and skills necessary for the member to access typical activities and functions of community life.
(i) Accessing the community includes providing a wide variety of opportunities which may include:
(I) development of social, communication and other skills needed to successfully participate in the desired communities;
(II) facilitating and building natural relationships in the desired communities;
(III) participating in community education experiences or training;
(IV) participating in volunteer activities the member finds interesting and desirable;
(V) exploring and understanding available public transportation options; and
(VI) participating in pre-employment and employment activities;
(ii) Services are conducted in a variety of settings in which members interact with individuals without disabilities. Services may include:
(I) social skill development;
(II) adaptive skill development; and
(III) personnel to accompany and support the member in community settings; and
(I) implementation of recommended and approved follow-up counseling, behavioral, or other therapeutic interventions;
(J) implementation of services delivered under the direction of a licensed or certified professional in that discipline including, but not limited to:
(i) family training;
(ii) psychological services;
(iii) counseling services;
(iv) physical therapy;
(v) occupational therapy; and

(vi) speech therapy;

(K) medical and health care services that are integral to meeting the daily needs of the member, which include, but are not limited to:

(i) routine administration of medications; and

(ii) tending to the medical needs of members;

(L) the provision of staff training per Oklahoma Administrative Code (OAC) 340:100-3-38.14, to meet the specific needs of the member; and

(M) assisting the member in obtaining services and supplies.

(d) **Eligibility.** ERS are provided to members who:

(1) have challenging behaviors, emotional challenges, or community protection needs and require additional supports to enable them to reside successfully in community settings. These services are designed to assist members to acquire, retain and improve the self-help, socialization, and adaptive skills necessary to remain in the community;

(2) have needs that cannot be met in other traditional community settings;

(3) participate in the DDS Community Waiver, per OAC 317:40-1-1;

(4) need community residential services outside the family home;

(5) do not receive:

(A) home-and community-based services options per OAC 340:100-5-22.1;

(B) group home services per OAC 317:40-5-152;

(C) habilitation training specialist per OAC 317:40-5-110;

(D) respite care per OAC 317:30-5-517;

(E) homemaker per OAC 317:30-5-535; and

(F) intensive personal supports per OAC 317:40-5-151; and

(6) are eighteen (18) years of age or older, unless approved by the DDS director or designee.

(e) **Service requirements.** ERS must be:

(1) included in the member's Plan per OAC 340:100-5-51, including a description of the type(s) and intensity of supervision and assistance that must be provided to the member;

(2) authorized in the member's Plan of Care (POC);

(3) provided by the contracted provider agency chosen by the member or guardian;

(4) delivered per OAC 340:100-5-22.1; and

(5) provided directly to the member.

(f) **Home Requirements.** ERS are provided to eligible members living outside the family's home in a home:

(1) licensed by Oklahoma Human Services (OKDHS) Child Care Services when the member is a child in custody of OKDHS, Child Welfare Services; or

(2) leased or owned by the member receiving services.

(g) **Responsibilities of provider agencies.** Each agency providing ERS ensures:

(1) ongoing supports are available as needed when the member is out of the home visiting family and friends, or hospitalized for psychiatric or medical care;

(2) compliance with all applicable DDS policy found at OAC 340:100; and

(3) that trained staff are available to the member as described in the Plan.

(4) a trainer of a nationally recognized person-centered planning program approved by DDS is employed as a member of the provider's leadership team or is contracted with the provider.

(5) A background investigation is conducted on staff per OAC 340:100-3-39.

(6) staff identified to work with children complete a Federal Bureau of Investigation (FBI) national criminal history search, which is based on the staff's fingerprints.

(h) **ERS claims.** No more than one unit of ERS per day may be billed.

(1) The provider agency claims one unit of service for each day during which the member receives ERS. A day is defined as the period between 12:00 a.m. and 11:59 p.m.

(2) Claims must not be based on budgeted amounts.

(3) When a member changes provider agencies, only the outgoing service provider agency claims for the day that the member moves.

(i) **Therapeutic leave.** ERS provides for therapeutic leave payments to enable the provider agency to retain direct support staff.

(1) Therapeutic leave is claimed when the member does not receive ERS services for 24-consecutive hours from 12:00 a.m. to 11:59 p.m. because of:

(A) a visit with family or friends without direct support staff;

(B) vacation without direct support staff; or

(C) hospitalization, whether direct support staff are present or not. ERS staff may be present with the member in the hospital as approved by the member's Personal Support Team (Team) in the Plan but are not responsible for the care of the patient.

(2) Therapeutic Leave must be authorized and documented in the POC.

(3) A member may receive therapeutic leave for no more than fourteen (14) consecutive days per event, not to exceed sixty (60) calendar days per POC year.

(4) The payment for a day of therapeutic leave is the same amount as the per diem rate for ERS.

(5) To promote continuity of staffing in the member's absence, the provider agency pays the staff member the salary that he or she would have earned if the member was not on therapeutic leave or provides the staff member a temporary, alternative work opportunity.

(j) **Transition.** Teams plan for a service recipient's transition to appropriate services when it is determined ERS is no longer necessary.

(1) Within six months of the service recipient's admission to ERS, the Team develops measurable, reasonable criteria for the service recipient's transition to a less restrictive environment that are:

(A) based on findings of the risk assessment completed by the Team per OAC 340:100-5-56.

(B) included in a written plan submitted to designated DDS State Office staff; and

(C) reviewed at least annually by the Team.

(2) All transitions from ERS must be approved by designated DDS State Office staff. DDS State Office staff may adjust the transition date when necessary.

(k) **DDS-initiated transition.** The DDS director or designee may initiate the transition process for a member receiving ERS who can be effectively served in another residential environment.