

FAMILY MANAGED RESPITE GUIDELINES

July 1, 2021



State of Vermont
Agency of Human Services
DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING
Developmental Disabilities Services Division
AND
Integrating Family Services
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Family Managed Respite Guidelines

BACKGROUND

In response to the changes in Children’s Personal Care Services, each Designated Agency (DA) received additional respite funding resources in FY13. This funding was provided in two ways for the following purposes:

- The Department of Mental Health (DMH) received additional funds through their Respite Grant to provide respite via agency-hired staff.
- The Department of Disabilities, Aging and Independent Living (DAIL) received funding for Family Managed Respite (FMR) to allow families to employ their own respite providers with payments managed through ARIS Solutions, the state contracted Fiscal/Employer Agent. A family member must be identified who is able to assume the role and responsibilities as an employer to access FMR.

PURPOSE

To provide caregivers, who support ongoing care for a child with an identified mental health condition and/or developmental disability, a break. FMR is a resource which enables many families to care for their child at home. FMR can be used as needed, either planned or in response to a crisis. It may be used to allow the caregiver to attend to his or her own needs, the needs of other family members, or simply to re-energize. FMR may also be used to create a break from the normal routine for the identified child.

FMR funds are to be used for paying a homecare provider/employee to provide direct care for a child. FMR can only be used for direct care provided by a person hired by the family. FMR cannot be used to pay for camp or to pay an organization, agency, or facility. FMR cannot be used to purchase goods or items. FMR funds are to be used for the Medicaid recipient, not multiple children, i.e., sibling groups. An exception to this is the care for up to two siblings, if both siblings have Medicaid and receive FMR.

FMR funding is available for children up to age 21 who are:

- Eligible to receive services from Children’s Mental Health and/or Developmental Services at the DA, and have Vermont Medicaid; and
- Living with their biological/adoptive families or legal guardians; and
- Do not receive Home and Community Based (HCBS), formerly known as “waiver” services: *Developmental Services HCBS, Department of Mental Health Extended Family Treatment, Department of Mental Health Community Rehabilitation and Treatment.*

If clinically eligible for Children’s Mental Health and/or Developmental Services, FMR may be considered as a resource.

FMR may be used during employment hours but it is not intended to support caregiver employment; for these circumstances, a referral to the Childcare Resource and Referral agency to identify potential supports and appropriate childcare settings should be made.

RESPITE RESOURCES

There are several different respite programs for children and families. Flexible Family Funding (FFF) is a respite option for children and adults with developmental disabilities and is accessed through Developmental Disabilities Services at Designated Agencies (DAs). Funding is provided by the Department of Disabilities, Aging, and Independent Living (DAIL). FFF is allocated to families based upon a sliding fee scale and may be used to purchase respite, goods, and services.

The DAs also receive respite grants through the Department of Mental Health (DMH) for children with emotional and behavioral conditions. This respite is accessed through Children's Mental Health at the DAs.

For children, youth, and adolescents with special health needs, respite and other funding resources are available through the Vermont Family Network (VFN). Children with Special Health Needs (CSHN) at the Vermont Department of Health provides a grant to VFN to administer family supplemental assistance funds, including respite.

The staff at the DAs will work with families to determine the most appropriate respite resource based on the child's and family's specific needs. The guidelines in this document relate specifically to FMR.

INTAKE AND ASSESSMENT

FMR budgets are approved based on the intake and assessment process. FMR allocations will be based on the date of entry into the program until no later than the end date of the fiscal year. Agencies should consider the child's needs, the family's needs, and the level of formal and informal supports and services available when determining allocations. The agency must maintain documentation as to how FMR supports the child's specific needs.

Start dates and end dates should be based on individual need. DAs notify families of their decision, in writing, including the amount of funding allocated, and any limits and end dates. The family should be notified of their appeal rights when they are issued the decision. For children and families who continue to be eligible for FMR, based on the documentation by the agency of an on-going need for respite support, the renewal date will be the start of the new fiscal year.

Below is a general guide when determining allocations. The maximum allocation for new families may not exceed \$6,000 (before employer taxes) in each fiscal year. DAs should use their discretion based on the assessed needs of the child and family when determining family allocations. DAs will need to manage

their agency allocations based on the anticipated needs of their communities. The levels are not meant to include or exclude all criteria with which a child presents. These recommended amounts are the amounts prior to adding the employer taxes. DAIL suggests that allocations be pro-rated to reflect entry date into the FMR program.

Level I: Up to approximately \$2,000 annually. Child and/or family presents with a need that warrants a respite allocation. Children at this level may have:

- none to moderate physical challenges
- occasional sleep disturbance
- stable health to moderate health issues
- stable behavior to moderate behavior challenges
- the ability to care for themselves or need a moderate level of assistance with personal care
- supervision/safety needs above what is age appropriate

Level II: Up to approximately \$4,000 annually. Child presents with a need that indicates a more skilled, better-trained provider is required. Children at this level may have:

- moderate health needs
- a need for regular assistance in self-care
- the ability to sleep through the night
- moderate, episodic behavioral challenges
- physical challenges
- supervision/safety needs above what is age appropriate
- require specialized forms of communication

Level III: Up to a maximum of \$6,000 annually. Child presents with care needs that are significant in their level of complexity and level of skill required by a caregiver. Children at this level may have:

- substantial health needs, OR
- significant behavioral challenges and/or public safety concerns that pose a risk to the safety of self or others, OR 2 or more of the following:
- significant personal/self-care needs

- special communication skills (e.g. sign language, AAC)
- regular sleep disturbance
- significant physical challenges

DESIGNATED AGENCY/EMPLOYER/EMPLOYEE (RESPITE PROVIDER) INFORMATION

The FMR program falls within the Collective Bargaining Agreement (CBA) for Independent Direct Support Providers and the State of Vermont. FMR wages must follow the minimum wage requirements and overtime rules set forth in the CBA. Effective July 2021, FMR wages may not exceed \$17 per hour. An additional amount shall be added to the hourly wage for employer taxes (unemployment and worker's compensation) and sick leave. In July 2021, the minimum hourly wage required is \$12.05 per hour, plus the 2021 employer fee of 11.38%. This would equal \$13.42 per hour for budgeting purposes. **The employer fee must be accounted for in the agency allocation to the family. For example, in 2021 if a family receives \$2,000 for respite, the actual amount the agency must account for is \$2,000 + the employer fees of 11.38%, or \$2,227.60.** The percentage needed for employer fees, and the CBA minimum wage changes periodically. Agencies and employers of record are notified when there are changes.

A 24-hour respite rate (daily rate) is allowed by the Department of Labor. Employers may pay an employee a flat 24-hour rate (daily rate) and exclude up to 8 hours of sleep time. (See https://www.dol.gov/whd/homecare/sleep_time.htm for rules on excluding sleep time from paid time). Generally, to use the daily rate, the employee must work with the consumer for a full 24-hour period and be allowed 8 hours of sleep time. If an employee must get up to assist a consumer during the 8-hour period for sleep time, the employee must also be paid an hourly rate for the time the employee is up working. The minimum and maximum daily rates are calculated using a wage at or between the prevailing CBA minimum hourly wage, and the new FMR maximum wage for sixteen hours per day, plus the 11.38% employer fees. There are circumstances in which the daily rate cannot be used, and the employer will need to pay the employee by the hour. See the DOL website above for those circumstances.

FMR must be paid to employees according to overtime rules (see <https://www.dol.gov/whd/homecare/> for requirements and exemptions from overtime). Overtime pay may be required when an employee works over 40 hours in a week.

PROCEDURES

1. Family completes an intake with the DA.
2. The DA determines clinical eligibility, documents the eligible DSM-5 diagnosis and code, and verifies Medicaid eligibility.

3. The DA conducts a needs assessment and determines whether FMR is an appropriate resource.
4. The DA provides a notice of decision regarding whether child is eligible to receive FMR. The notice should include the amount of the allocation. The start and end dates, which must be within the fiscal year, and their appeal rights. (Family allocations do not carryover and must be used by June 30th.)
5. The DA reviews the options and responsibilities of FMR with the family. A family member must be identified who is able to take on the role and responsibilities as an employer. It is assumed that most families can manage this resource and should be afforded the option to manage their services. However, an agency may determine that the family is not able to manage this resource based on the following reasons:
 - a. The family management of services put the person's health or safety at risk;
 - b. The person is not able to consistently arrange for the respite services;
 - c. Even after getting training and support, the person is not substantially or consistently following the rules for an employer that are in the agreement, or carrying out the duties as an employer;
 - d. The family is precluded from being an employer due to Medicaid Fraud.

Agency managed respite may be an option in these cases.

6. The DA fills out ARIS Solutions Fiscal Agent Enrollment or Change of Information Form and submits it to ARIS Solutions. The DA must ensure the appropriate diagnostic coding is included on the enrollment form so that ARIS Solutions can initiate billing to DXC Technology, or to the Counseling Service of Addison County (CSAC) if the child is served by this agency. The enrollment form must be completed in its entirety: Child's Name, Address, Date of Birth, Social Security Number or Medicaid Identification Number, DSM-5 diagnosis, ICD-10 Code, Employer Name, Start Date, End Date, Total Allocation, Effective Date of Enrollment/Change. If the form is missing any of this information, it could delay processing and payment of timesheets.
7. The DA gives the family the ARIS Solutions contact information and refers the family to ARIS Solutions to obtain the enrollment paperwork.
8. ARIS Solutions staff explains the enrollment and payroll process to the family and mails the family the appropriate "New Employer Start-Up Packet."
 - a. If not already enrolled with ARIS Solutions, the family must complete an employer packet to enroll as the "Employer of Record" and an Employee Enrollment Packet for each prospective provider. All forms must be returned to ARIS Solutions in order to process payroll.

- b. ARIS Solutions staff is available by phone to assist families in filling out the employer and employee packets.
 - c. Respite may be provided by a family member who is **not** the parent or in a **primary caregiving role**. A child's parent, step-parent, adoptive parent, legal guardian or the domestic partner of the parent, step-parent or adoptive parent, or legal guardian are considered to be in a primary caregiving role and may not be paid as respite providers through FMR.
 - d. The DAIL background checks must be completed according to the DAIL Background Check Policy before a respite provider can begin providing the service. Included here is a link to that policy: www.dail.vermont.gov. **Services provided prior to completion of this process will not be paid through FMR.**
 - e. The DAIL background check policy provides for in-state background checks. If a family chooses to pursue out of state background checks, the cost of these checks would be their responsibility.
9. The family identifies caregivers to provide respite. The family determines the necessary skills required to provide care to their child and ensures that all respite providers receive the training needed to meet the child's needs and ensure his/her health and safety prior to working alone with the child.
10. After prospective providers are identified, ARIS Solutions Employee Enrollment forms are completed by the family/employer of record and forwarded to ARIS Solutions for processing.
- a. Once the paperwork and background checks are completed, the respite providers can begin providing services based upon a mutually agreeable wage between the Vermont minimum wage/CBA requirements and a maximum wage of \$16.00 per hour. The wage must adhere to Vermont Department of Labor requirements, including Fair Labor Standards Act companionship rules which became effective 1/1/15. Information on these rules will be included in the ARIS employer packet at that time. (see also <https://www.dol.gov/whd/homecare/>)
 - b. The service codes for the employee timesheets will be S5150 for hourly respite and S5151 for daily rate respite, except for CSAC which will use IFS-R.
 - c. Timesheet submission and payroll follow DAIL/DDSD billing practices and timelines. Timesheets submitted more than two weeks after the close of the fiscal year (or as noticed by ARIS Solutions) will not be paid. ARIS Solutions will notify employees of this date. ARIS Solutions will send reminder notices regarding final time report submission dates.
 - d. The child's designated agency affiliation must be noted on the timesheet.
 - e. ARIS Solutions mails out a bi-weekly statement to each family which includes the balance of their respite budget. The family is expected to manage within their available budget. ARIS Solutions will not pay timesheets which exceed the allocated budget. Any unpaid timesheets are the responsibility of the family.

REQUIREMENTS FOR EMPLOYEES (RESPITE PROVIDERS)

- Providers must be at least 18 years old and have a high school diploma or equivalent. Families may request an exception to the age and education requirement by submitting a request, in writing, to: Department of Disabilities, Aging and Independent Living, Developmental Disabilities Services Division, 280 State Drive/HC2 South, Waterbury, VT 05671-2030.
- Providers must pass a DAIL background check as specified in the DAIL Background Check Policy. Services provided prior to passing the DAIL background check will not be paid through FMR.
- Providers cannot be in a primary caregiving role, as noted above.

DESIGNATED AGENCY SPECIFIC INFORMATION

Medicaid billing for FMR is set up through Gainwell (formerly DXC Technology). ARIS Solutions will bill Gainwell on behalf of Medicaid beneficiaries. On an annual basis, DAIL will notify each DA of their agency specific FMR budget. The DAs will manage the annual allocation but will not receive funds directly for this program.

ARIS Solutions will bill Gainwell for the respite used by families, except for CSAC, which will be billed for respite and fees directly. ARIS Solutions will also bill DXC Technology for the administrative fee for each person who utilizes the ARIS Solutions payroll in that month.

The ARIS Solutions FMR Administrative Fee will be identified in their contract and updated as needed.

MONITORING

The DA should very carefully monitor families' usage of their allocations. If families are not utilizing their allocations the DA shall explore the reasons. These may include an inability to find respite workers or the family is no longer in need of respite. If the funds are not needed, they should be made available to others in need of FMR.

ARIS Solutions will provide detailed reports to each employer and DA to assist them with monitoring the spending amount on the program.

REPORTING

Agencies shall report allocations and usage according to the Developmental Disabilities Services Division (DDSD) spreadsheet instructions provided separately.

DAIL uses agency and ARIS Solutions spending reports to determine the fiscal year allocation for each agency. Agency specific allocations may be redistributed by DAIL across agencies to address waiting lists or underutilization.

APPEALS

If a child is determined to be ineligible for Family Managed Respite, or the family disagrees with the agency's allocation decision, the family/individual has the right to appeal. The appeal procedures are the same as for all appeals of Developmental Disabilities Services as outlined in the *Regulations Implementing the Developmental Disabilities Act*. <http://ddsd.vermont.gov/grievance-appeals>

WAITING LIST

Agencies shall maintain a waiting list for children eligible for FMR but for whom there are insufficient funds. Waiting list information shall be reported according to DDSD waiting list guidelines provided separately.

Questions regarding the Family Managed Respite Guidelines should be directed to:

DDSD Children's Services Specialist
Integrating Family Services and DAIL/DDSD

280 State Drive, NOB 2 North

Waterbury, VT 05671-2090

802-241-0154

AHS.DAILDDSDChildrensSpecialist@vermont.gov