

TO BE RESCINDED

5101:3-41-15 **Home and community based waiver services - reimbursement for adult day support, vocational habilitation, supported employment- enclave, supported employment-community, supported employment adapted equipment and non-medical transportation to access one or more of these services administered by the Ohio department of mental retardation and developmental disabilities.**

(A) The purpose of this rule is to establish payment standards governing reimbursement for adult day support, vocational habilitation, supported employment-enclave, supported employment - community, supported employment adapted equipment and non-medical transportation to access one or more of these services as components of the medicaid program and as administered by the Ohio department of mental retardation and developmental disabilities (ODMRDD) in accordance with sections 5111.85 and 5111.873 of the Revised Code.

(B) The ODMRDD is responsible for the daily administration of certain components of the medicaid program to include home and community based services (HCBS) pursuant to an interagency agreement with the Ohio department of job and family services (ODJFS) in accordance with sections 5111.91 and 5111.871 of the Revised Code.

(C) Definitions

(1) Day habilitation means an HCBS waiver service as defined in rule 5123:2-9-10 of the Administrative Code.

(2) Supported employment means an HCBS waiver service as defined in rule 5123:2-9-13 of the Administrative Code.

(3) Adult day services means adult day support and vocational habilitation as defined in rule 5123:2-9-17 of the Administrative Code, supported employment- enclave, supported employment-community, and supported employment adapted equipment as defined in rule 5123:2-9-16 of the Administrative Code and non-medical transportation to access one or more of these services as defined in rule 5123:2-9-18 of the Administrative Code.

(D) The following service limitations apply:

(1) Individuals that receive day habilitation as a waiver service may not receive this service at the same time as adult day support, vocational habilitation, or supported employment - enclave; and

- (2) Individuals that receive supported employment as defined in paragraph (C)(2) of this rule may not receive the service at the same time as supported employment - community or supported employment - enclave.

(E) Payment standards

- (1) Subject to the service limitations in paragraph (D) of this rule, individuals who:
 - (a) Are receiving day habilitation may continue to receive day habilitation and shall be subject to the payment standards as defined in rule 5123:2-9-12 and rule 5101:3-41-10 of the Administrative Code for the individual options and level one waiver; and/or
 - (b) Are receiving supported employment may continue to receive supported employment and shall be subject to the payment standards as defined in rule 5123:1-2-08 and rule 5101:3-40-01 of the Administrative Code for the individual options waiver and rule 5101:3-41-11 of the Administrative Code for the level one waiver; and/or
 - (c) Are receiving or are requesting to receive one or more of the adult day services as defined in paragraph (C) of this rule shall be subject to the payment standards set forth in this rule and rule 5123:2-9-19 of the Administrative Code.
- (2) Day habilitation and supported employment as defined in paragraph (C) of this rule shall not be available as waiver services after December 31, 2007.

(F) Individuals that receive one or more adult day support, vocational habilitation, supported employment-enclave, supported employment-community waiver services as defined in rules 5123:2-9-16 and 5123:2-9-17 of the Administrative Code shall be eligible to receive non-medical transportation as a waiver service as defined in rule 5123:2-9-18 of the Administrative Code. Transportation services may be provided in addition to the non-medical transportation services.

(G) Reimbursement for adult day support, vocational habilitation, supported employment-enclave, supported employment-community, supported employment - adapted equipment, and non-medical transportation shall not exceed the rates in appendix A to this rule nor exceed the annual budget limitation in appendix B to this rule. The provider shall bill ODMRDD its usual and customary charge or the rate in appendix A to this rule. Without regard to the rate of reimbursement that may be identified in appendix A to this rule, no provider of adult day services shall receive reimbursement at a rate in excess of the rate in the federally approved

waiver amendment.

(H) Certified waiver providers shall submit claims for the provision of adult day services in accordance with the process specified in rule 5123:2-9-19 of the Administrative Code.

(I) Certified waiver providers shall receive payment for the provision of adult day services as indicated in paragraph (E) of this rule when the following conditions exist:

(1) The agency provider has certification for each service they provide in accordance with applicable requirements; and

(2) The provider has a valid medicaid provider agreement in accordance with rule 5101:3-1-17.2 of the Administrative Code; and

(3) The waiver service is provided to an individual who is enrolled in a waiver program at the time of service; and

(4) The waiver service is provided in accordance with the enrollee's individual service plan; and

(5) The waiver service provided to the individual is documented in accordance with rules 5123:2-9-05 and 5123: 2-9-19 of the Administrative Code; and

(6) The waiver service is provided to the individual by direct service staff who meet the certification standards in accordance with rule 5123:2-9-19 of the Administrative Code; and

(J) Payments made under the authority of this rule for the provision of HCBS constitute payment in full and shall not be construed as a partial payment.

(K) Cost report

(1) County boards of mental retardation and developmental disabilities shall submit cost reports to the ODMRDD for the purpose of allocating adult day services costs in accordance with the federally approved waiver. The format of the cost report shall be designed by ODMRDD and accepted by ODJFS.

(L) Due process

- (1) Applicants for waiver enrollment or individuals enrolled on a waiver administered by ODMRDD shall be afforded due process in accordance with section 5101.35 of the Revised Code through the state fair hearing process and as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
- (2) If an applicant or enrollee requests a hearing, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the participation of ODMRDD and/or the county board of mental retardation and developmental disabilities is required during the hearing proceedings to justify the decision under appeal in accordance with section 5126.055 of the Revised Code.

(M) Monitoring

ODJFS shall monitor reimbursement made under authority of this rule as necessary to ensure that the funding applicable to HCBS is used for authorized purposes in compliance with laws, regulations and provisions governing the medicaid program.

Effective: 09/15/2012

R.C. 119.032 review dates: 06/22/2012

CERTIFIED ELECTRONICALLY

Certification

08/27/2012

Date

Promulgated Under: 119.03
Statutory Authority: 5111.873, 5111.85
Rule Amplifies: 5111.873, 5111.85
Prior Effective Dates: 1/01/07, 07/01/07