

5123-9-18**Home and community-based services waivers - non-medical transportation under the individual options, level one, and self-empowered life funding waivers.**(A) Purpose

This rule defines non-medical transportation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

For the purposes of this rule, the following definitions shall apply:

- (1) "Adult day support" has the same meaning as in rule 5123:2-9-17 of the Administrative Code.
- (2) "Agency provider" means an entity that directly employs at least one person in addition to the chief executive officer for the purpose of providing services for which the entity must be certified in accordance with rule 5123:2-2-01 of the Administrative Code.
- (3) "Budget limitation" has the same meaning as in rule 5123-9-19 of the Administrative Code.
- (4) "Career planning" has the same meaning as in rule 5123-9-13 of the Administrative Code.
- (5) "Commercial vehicles" means buses, light rail transit, livery vehicles, and taxicabs that are available for public use.
- (6) "Commute" means the number of miles driven when one or more individual is riding in a vehicle while non-medical transportation at the per-mile rate is being provided.
- (7) "County board" means a county board of developmental disabilities.
- (8) "Department" means the Ohio department of developmental disabilities.
- (9) "Group employment support" has the same meaning as in rule 5123:2-9-16 of the Administrative Code.
- (10) "Homemaker/personal care" has the same meaning as in rule 5123-9-30 of the Administrative Code.

- (11) "Independent provider" means a self-employed person who provides services for which he or she must be certified in accordance with rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (12) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (13) "Individual employment support" has the same meaning as in rule 5123:2-9-15 of the Administrative Code.
- (14) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (15) "Modified vehicle" means:
- (a) A motor vehicle to be used upon public streets and highways that has been structurally modified in a permanent manner to meet the physical or behavioral needs of the individual being transported; or
 - (b) A motor vehicle that has has been designed, constructed, or fabricated and equipped to be used upon public streets and highways for transportation of individuals who require use of a wheelchair and that shall:
 - (i) Have permanent fasteners to secure a wheelchair to the floor or side of the vehicle to prevent wheelchair movement;
 - (ii) Have safety harnesses or belts in the vehicle for the purpose of securing individuals in wheelchairs;
 - (iii) Be equipped with a stable access ramp specifically designed for wheelchairs or a hydraulic lift specifically designed for wheelchairs; and
 - (iv) On each day the vehicle is used to provide non-medical transportation, be inspected and tested by the first driver of the vehicle to ensure the permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lift are working prior to transporting an individual in a wheelchair. The daily inspection shall be documented by the driver that conducts the inspection.

- (16) "Non-medical transportation" means transportation used by an individual to get to, from, between, or among:
- (a) A place of employment;
 - (b) A location where adult day support, career planning, group employment support, individual employment support, or vocational habilitation is provided to the individual;
 - (c) A volunteer activity;
 - (d) A post-secondary educational program;
 - (e) An internship or practicum; and/or
 - (f) A drop-off or transfer location from which the individual is then transported to or from one of the places specified in paragraphs (B)(16)(a) to (B)(16)(e) of this rule.
- (17) "Participant-directed homemaker personal care" has the same meaning as in rule 5123-9-32 of the Administrative Code.
- (18) "Passenger" means a traveler in a vehicle who does not participate in its operation.
- (19) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- (20) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that shall include the items delineated in paragraph (H) of this rule to validate payment for medicaid services.
- (21) "Transportation" has the same meaning as in rule 5123-9-24 of the Administrative Code.
- (22) "Vocational habilitation" has the same meaning as in rule 5123:2-9-14 of the Administrative Code.

(23) "Volunteer activity" means an activity performed by an individual for which the individual receives no payment.

(C) Provider qualifications

(1) Non-medical transportation shall be provided by an independent provider, an agency provider, or an operator of commercial vehicles that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.

(2) An applicant seeking approval to provide non-medical transportation shall complete and submit an application through the department's website (<http://dodd.ohio.gov>) and adhere to the requirements of rule 5123:2-2-01 of the Administrative Code except that paragraphs (D)(1), (D)(2), (D)(5), (D)(8), and (D)(17) of that rule do not apply to operators of commercial vehicles.

(3) An applicant seeking approval to provide non-medical transportation as an independent provider shall present his or her driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of his or her application for initial or renewal provider certification. A person having six or more points on his or her driving record is prohibited from providing non-medical transportation.

(4) An independent provider of non-medical transportation shall:

(a) Hold a valid driver's license as specified by Ohio law.

(b) Have valid liability insurance as specified by Ohio law.

(c) Immediately notify the department, in writing, if he or she accumulates six or more points on his or her driving record or if his or her driver's license is suspended or revoked.

(d) Complete testing for controlled substances by a laboratory certified for such testing within thirty-two hours and complete testing for blood alcohol level by an entity certified for such testing within eight hours of a motor vehicle accident involving the driver while he or she was providing non-medical transportation when:

(i) The accident involves the loss of human life; or

(ii) The driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(b) One or more motor vehicles incurred disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(5) An agency provider of non-medical transportation shall:

(a) Ensure that each driver holds a valid driver's license as specified by Ohio law.

(b) Ensure that each driver is covered by valid liability insurance as specified by Ohio law.

(c) Obtain, for each driver, a driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of initial employment as a driver and at least once every three years thereafter. A person having six or more points on his or her driving record is prohibited from providing non-medical transportation.

(d) Require each driver to immediately notify the agency provider, in writing, if the driver accumulates six or more points on his or her driving record or if his or her driver's license is suspended or revoked.

(e) Ensure that each driver completes testing for controlled substances by a laboratory certified for such testing within thirty-two hours and completes testing for blood alcohol level by an entity certified for such testing within eight hours of a motor vehicle accident involving the driver while he or she was providing non-medical transportation when:

(i) The accident involves the loss of human life; or

(ii) The driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(b) One or more motor vehicles incurred disabling damage as a result of the accident, requiring the motor vehicle to be

transported away from the scene by a tow truck or other motor vehicle.

(f) Develop and implement written policies and procedures regarding vehicle accessibility, vehicle maintenance, and requirements for vehicle drivers.

(6) Failure to comply with this rule and applicable provisions of rule 5123:2-2-01 of the Administrative Code may result in denial, suspension, or revocation of the provider's certification.

(D) Meeting an individual's needs for non-medical transportation

(1) There are three modes of non-medical transportation:

(a) Non-medical transportation at the per-trip rate;

(b) Non-medical transportation at the per-mile rate; and

(c) Non-medical transportation provided by operators of commercial vehicles at the usual and customary fare.

(2) An individual's non-medical transportation needs may be met through a combination of non-medical transportation at the per-trip rate, non-medical transportation at the per-mile rate, and/or non-medical transportation provided by operators of commercial vehicles at the usual and customary fare.

(3) Non-medical transportation shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code. The individual service plan of an individual who requires non-medical transportation to be provided in a modified vehicle shall so indicate.

(4) The service and support administrator shall ensure that a budget limitation for non-medical transportation is determined in accordance with rule 5123-9-19 of the Administrative Code when the need for non-medical transportation has been identified through development of the individual service plan. Whenever possible, family, neighbors, friends, or community agencies that transport people without charge shall be utilized to meet an individual's needs.

(5) Nothing in this rule shall be interpreted to prohibit a provider of homemaker/personal care or participant-directed homemaker/personal care from transporting an individual to, from, between, or among the venues described in paragraph (B)(16) of this rule and billing for homemaker/personal care in accordance with rule 5123-9-30 of the Administrative Code

or participant-directed homemaker/personal care in accordance with rule 5123-9-32 of the Administrative Code and transportation in accordance with rule 5123-9-24 of the Administrative Code.

(E) Requirements for service delivery of non-medical transportation

- (1) Drivers of vehicles used for non-medical transportation at the per-trip rate or non-medical transportation at the per-mile rate shall comply with federal, state, and local laws and regulations.
- (2) Operators of commercial vehicles shall comply with federal, state, and local laws and regulations pertaining to the maintenance and operation of the commercial vehicles.
- (3) When a modified vehicle or a vehicle equipped to transport five or more passengers is used for non-medical transportation at the per-trip rate or non-medical transportation at the per-mile rate, the vehicle shall:
 - (a) Be equipped with:
 - (i) Secure storage space for removable equipment and passenger property;
 - (ii) A communication system, which may include cellular communication, capable of two-way communication; and
 - (iii) A fire extinguisher and an emergency first-aid kit that are safely secured.
 - (b) Be inspected and tested, on each day the vehicle is used to provide non-medical transportation, by the first driver of the vehicle and prior to transporting an individual, to ensure the lights, windshield washer/wipers, emergency equipment, mirrors, horn, tires, and brakes are working. The daily inspection shall be documented by the driver that conducts the inspection.
 - (c) Be inspected and determined to be in good working condition at a frequency of at least once every twelve months by the Ohio state highway patrol safety inspection unit or by a mechanic certified by an automotive dealership or the national institute for automotive service excellence.

(F) Requirements for service delivery of non-medical transportation at the per-trip rate

(1) Individuals shall be in the vehicle during the times the provider bills non-medical transportation at the per-trip rate.

(2) A provider shall not bill for adult day support, career planning, group employment support, individual employment support, or vocational habilitation during the same time non-medical transportation at the per-trip rate is provided.

(3) A provider shall not bill for homemaker/personal care or participant-directed homemaker/personal care provided by the driver during the same time non-medical transportation at the per-trip rate is provided.

(G) Requirements for service delivery of non-medical transportation at the per-mile rate

(1) Individuals shall be in the vehicle during the times the provider bills non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation is being provided on behalf of an individual who is receiving individual employment support or the job development or worksite accessibility components of career planning.

(2) A provider may bill for adult day support, career planning, group employment support, individual employment support, or vocational habilitation during the same time non-medical transportation at the per-mile rate is provided.

(3) A provider may bill for homemaker/personal care or participant-directed homemaker/personal care provided by the driver during the same time non-medical transportation at the per-mile rate is provided.

(H) Documentation of services

(1) Service documentation for non-medical transportation at the per-trip rate and non-medical transportation at the per-mile rate shall include each of the following to validate payment for medicaid services:

(a) Type of non-medical transportation service (i.e., per-trip or per-mile) provided.

(b) Date of service.

(c) Type of vehicle (i.e., modified vehicle or non-modified vehicle) used to provide service.

(d) License plate number of vehicle used to provide service.

(e) Name of individual receiving service.

- (f) Medicaid identification number of individual receiving service.
 - (g) Name of provider.
 - (h) Provider identifier/contract number.
 - (i) Signature of driver of the vehicle or initials of driver of the vehicle if the signature and corresponding initials are on file with the provider.
 - (j) Names of all passengers, including paid staff and volunteers, who were in the vehicle during any portion of the trip and/or commute.
 - (k) Times the trip or commute started and stopped.
- (2) Service documentation for non-medical transportation at the per-mile rate shall include, in addition to the items required in paragraph (H)(1) of this rule, the number of miles in each distinct commute, as indicated by recording beginning and ending odometer readings or via tracking or mapping by a global positioning system.
- (3) Service documentation for non-medical transportation by operators of commercial vehicles shall include each of the following to validate payment for medicaid services:
- (a) Type of non-medical transportation service (i.e., by bus, light rail transit, livery vehicle, or taxicab) provided.
 - (b) Date of service or, in the case of a purchase of bus fares, taxicab tokens, or similar types of travel vouchers to be used on more than one date, date of purchase.
 - (c) Name of individual receiving service.
 - (d) Medicaid identification number of individual receiving service.
 - (e) Name of provider.
 - (f) Provider identifier/contract number.
 - (g) Receipt issued by operator of commercial vehicles indicating the amount paid.

(I) Payment standards

- (1) The billing units, service codes, and payment rates for non-medical transportation are contained in appendix A to this rule.
- (2) Payment rates for non-medical transportation at the per-trip rate are established on a per-person basis, irrespective of the number of individuals being transported simultaneously, and based on the county cost-of-doing-business category for the county in which the preponderance of service was provided. The cost-of-doing-business categories are contained in appendix B to this rule.
- (3) Payment rates for non-medical transportation at the per-mile rate are established on a per-person basis, depending on the number of individuals being transported, regardless of funding source, and whether the service is provided in a modified vehicle or in a non-modified vehicle. The modified vehicle rate shall be applied for each individual being transported when at least one individual requires the use of a modified vehicle, as specified in his or her individual service plan.
- (4) Operators of commercial vehicles shall be paid their usual and customary fares.
- (5) Payment for non-medical transportation shall not exceed the budget limitations contained in appendix B to rule 5123-9-19 of the Administrative Code.

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