

5123:2-9-45

**Home and community-based services waivers - participant-directed goods and services under the self-empowered life funding waiver.**

(A) Purpose

The purpose of this rule is to define participant-directed goods and services and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Agency provider" means an entity that employs persons for the purpose of providing services.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Family member" means a person who is related to the individual by blood, marriage, or adoption.
- (5) "Independent provider" means a person who provides services and does not employ, either directly or through contract, anyone else to provide the services.
- (6) "Individual" means a person with a developmental disability or for the 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. An individual who is his or her own guardian may designate another person to assist the individual with development of the individual service plan and budget, selection of residence and providers, and negotiation of payment rates for services; the individual's designee shall not be employed by a county board or a provider, or a contractor or either.
- (7) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (8) "Medicaid program" has the same meaning as in section 5111.01 of the Revised Code.
- (9) "Participant-directed goods and services" means services, equipment, or supplies not otherwise provided through the self-empowered life funding waiver or through the state's medicaid program that address a need identified in the individual service plan (including maintaining and improving an individual's opportunities for full membership in the community) and meet the following requirements:

- (a) The services, equipment, or supplies:
  - (i) Decrease the need for other medicaid services;
  - (ii) Promote inclusion in the community; or
  - (iii) Increase the individual's safety in his or her home.
- (b) The services, equipment, or supplies are not illegal or otherwise prohibited by federal or state statutes or regulations;
- (c) The individual does not have funds to purchase the services, equipment, or supplies, and they are not available through another resource; and
- (d) The services, equipment, or supplies are required to meet the needs and outcomes identified in the individual service plan; assure the health and welfare of the individual; are the least costly alternative that reasonably meets the individual's assessed needs; and are for the direct benefit of the individual in achieving at least one of the following outcomes:
  - (i) Improving cognitive, social, or behavioral functioning;
  - (ii) Maintaining the ability of the individual to remain in the community;
  - (iii) Enhancing community inclusion and family member involvement;
  - (iv) Developing or maintaining personal, social, or physical skills;
  - (v) Decreasing dependency on formal support services; or
  - (vi) Increasing independence of the individual.
- (10) "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.
- (11) "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 (E)(2) of this rule to validate payment for medicaid services.
- (12) "Specialized services" means any program or service designed and operated to

serve primarily a person with a developmental disability, including a program or service provided by an entity licensed or certified by the department. Programs or services available to the general public are not specialized services.

(13) "Support broker" means a person who is responsible, on a continuing basis, for providing an individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services (particularly those associated with participant direction) in accordance with the individual service plan. The support broker assists the individual with the individual's responsibilities regarding participant direction, including understanding employer authority and budget authority, locating and selecting providers, negotiating payment rates, and keeping the focus of the services and support delivery on the individual and his or her desired outcomes. The support broker, working in conjunction with the service and support administrator, assists the individual with creating the individual service plan, developing the waiver budget, and doing day-to-day monitoring of the provision of services as specified in the individual service plan.

(14) "Usual and customary charge" means the amount charged to other persons for the same service.

#### (C) Provider qualifications

(1) Rule 5123:2-2-01 of the Administrative Code does not apply to providers of participant-directed goods and services.

(2) Paragraphs (M)(1) and (M)(2) of rule 5123:2-9-40 of the Administrative Code do not apply to participant-directed goods and services.

(3) Participant-directed goods and services shall be provided by an independent provider or an agency provider that meets the requirements of this rule.

(4) The financial management services entity and/or support broker may purchase items for the individual as specified in the individual's approved individual service plan.

(5) A county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards may provide participant-directed goods or services only when no other certified provider is willing and able.

#### (D) Requirements for service delivery

(1) Participant-directed goods and services shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (K) of rule 5123:2-9-40 of the Administrative Code.

(2) Participant-directed goods and services shall not be specialized services. If there is a question as to whether participant-directed goods and services are specialized services, the director of the department may make a determination. The director's determination is final.

(3) Participant-directed goods and services shall not include the following which are prohibited from being paid for under the self-empowered life funding waiver:

(a) Experimental treatments;

(b) Items used solely for entertainment or recreational purposes; and

(c) Tobacco products or alcohol.

(E) Documentation of services

(1) Paragraph (N) of rule 5123:2-9-40 of the Administrative Code does not apply to participant-directed goods and services.

(2) Service documentation for participant-directed goods and services shall consist of a written invoice that contains the individual's name and medicaid identification number, a description of the item or service provided, the provider's name, the date the item or service was provided, and the provider's charge for the item or service.

(3) The financial management services entity shall maintain all service documentation for a period of six years from the date of receipt of payment for the service or until an initiated audit is resolved, whichever is longer.

(F) Payment standards

(1) The billing unit, service code, and payment rate for participant-directed goods and services are contained in the appendix to this rule.

(2) Providers of participant-directed goods and services shall be paid no more than their usual and customary charge for the services, equipment, or supplies provided.

Effective:

R.C. 119.032 review dates:

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Certification

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Date

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