

**NOTICE OF PUBLIC HEARING**

DATE: November 21, 2023

TIME: 10:00 a.m.

PLACE: Lobby Hearing Room
Rhodes State Office Tower
30 East Broad Street
Columbus, Ohio 43215

Pursuant to Chapter 119. of the Revised Code, the Ohio Department of Developmental Disabilities hereby gives notice of its intent to amend and rescind rules of the Administrative Code on a permanent basis on or about January 1, 2024, and to conduct a public hearing thereon. At this public hearing, the Department will accept verbal and/or written testimony regarding the proposed rule actions.

Persons unable to attend the public hearing may submit written comments regarding the proposed rule actions. Any written comments received on or before the public hearing date will be treated as testimony and made available for public review. Submittal of written comments may be made to Becky Phillips, Administrative Rules Coordinator, by email to becky.phillips@dodd.ohio.gov or by U.S. mail to 1810 Sullivant Avenue, Columbus, Ohio 43223-1239. Comments regarding rules are public records; persons submitting comments should refrain from including confidential or

personal information about themselves or any other person.

The State's two-year budget for fiscal years 2024-2025 (i.e., House Bill 33 of the 135th General Assembly) increased the Department's appropriations by approximately \$352 million in fiscal year 2024 and \$860 million in fiscal year 2025 to fund increases in payment rates for most services provided to persons enrolled in Department-administered Home and Community-Based Services (HCBS) waivers. The budget reflects the largest investment in the history of Ohio's developmental disabilities service delivery system. To implement these historic payment rate increases, the Department is amending 18 rules and rescinding one rule.

Rule 5123-9-06 (Home and community-based services waivers - administration of the individual options and level one waivers) establishes standards governing administration of the Individual Options and Level One waivers, components of the Medicaid HCBS program the Department administers pursuant to Section 5166.21 of the Revised Code. The rule is being amended to increase funding ranges for individuals enrolled in the Individual Options Waiver and benefit limitations for individuals enrolled in the Level One Waiver. Additional amendments are being made to update a citation to the Administrative Code and align wording with newer rules.

Rule 5123-9-13 (Home and community-based services waivers - career planning under the individual options, level one, and self-empowered life funding waivers) defines Career Planning and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-14 (Home and community-based services waivers - vocational habilitation under the individual options, level one, and self-empowered life funding waivers) defines Vocational Habilitation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to

increase payment rates. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-15 (Home and community-based services waivers - individual employment support under the individual options, level one, and self-empowered life funding waivers) defines Individual Employment Support and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-16 (Home and community-based services waivers - group employment support under the individual options, level one, and self-empowered life funding waivers) defines Group Employment Support and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-17 (Home and community-based services waivers - adult day support under the individual options, level one, and self-empowered life funding waivers) defines Adult Day Support and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-18 (Home and community-based services waivers - non-medical transportation under the individual options, level one, and self-empowered life funding waivers) defines Non-Medical Transportation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates.

Rule 5123-9-19 (Home and community-based services waivers - general requirements for adult day support, career planning, group employment support, individual employment support, non-medical transportation, and vocational habilitation) establishes general requirements governing provision of and payment for Adult Day Support, Career Planning, Group Employment Support, Individual Employment Support, Non-Medical Transportation, and Vocational Habilitation provided to individuals enrolled in HCBS waivers administered by the Department. The rule is being amended to increase budget limitations that apply to individuals enrolled in the Individual Options Waiver. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-20 (Home and community-based services waivers - money management under the individual options and level one waivers) defines Money Management and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to eliminate training requirements that are addressed in the overarching rules for provider certification (i.e., 5123-2-08 and 5123-2-09), update citations to the Administrative Code, and align wording with newer rules.

Rule 5123-9-21 (Home and community-based services waivers - informal respite under the level one waiver) defines Informal Respite and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to align wording with newer rules.

Rule 5123-9-22 (Home and community-based services waivers - community respite under the individual options, level one, and self-empowered life funding waivers) defines Community Respite and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to update

citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-24 (Home and community-based services waivers - transportation under the individual options, level one, and self-empowered life funding waivers) defines Transportation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to align wording with newer rules.

Rule 5123-9-26 (Home and community-based services waivers - self-directed transportation under the individual options, level one, and self-empowered life funding waivers) defines Self-Directed Transportation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to align wording with newer rules.

Rule 5123-9-29 (Home and community-based services waivers - home-delivered meals under the individual options, level one, and self-empowered life funding waivers) defines Home-Delivered Meals and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates.

Rule 5123-9-35 (Home and community-based services waivers - remote support under the individual options, level one, and self-empowered life funding waivers) defines Remote Support and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to update citations to the Administrative Code and align wording with newer rules.

Rule 5123-9-37 (Home and community-based services waivers - waiver nursing delegation under the individual options, level one, and self-empowered life

funding waivers) defines Waiver Nursing Delegation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to adjust wording to reflect changes made to Chapter 4723. of the Revised Code regarding nursing licensure, require providers of Waiver Nursing Delegation to use electronic visitation verification, update citations to the Administrative Code, and align wording with newer rules.

Rule 5123-9-39 (Home and community-based services waivers - waiver nursing services under the individual options waiver) defines Waiver Nursing Services and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to increase payment rates. Additional amendments are being made to adjust wording to reflect changes made to Chapter 4723. of the Revised Code regarding nursing licensure, update a citation to the Administrative Code, and align wording with newer rules.

Rule 5123-9-40 (Home and community-based services waivers - administration of the self-empowered life funding waiver) implements the Self-Empowered Life Funding Waiver, a component of the Medicaid HCBS program administered by the Department pursuant to Section 5166.21 of the Revised Code. The rule is being amended to increase benefit limitations for individuals enrolled in the Waiver. Additional amendments are being made to update a citation to the Administrative Code and align wording with newer rules.

Rule 5123-9-05 (Home and community-based services waivers - retention payments for direct support professionals) establishes requirements and processes for retention payments to benefit Direct Support Professionals providing specific services to individuals enrolled in HCBS waivers administered by the Department. The rule is being rescinded. In accordance with Section 261.160 of House Bill 33 of the 135th General Assembly, the program concludes December 31, 2023. Payment rates for providers of the services subject to retention payments in accordance with rule 5123-9-05 are being substantially increased through amendments to the rules described above.

The rules are available for review at the [Register of Ohio](#) and at the [Department's website](#). The rules are also available for review at each county board of developmental disabilities.

The Department is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act and other applicable laws. To request a reasonable accommodation due to a disability, please contact Becky Phillips, Administrative Rules Coordinator, no later than November 7, 2023, by email to becky.phillips@dodd.ohio.gov or by telephone (614-644-7393 / TTY 711).

Please note that visitors to the Rhodes State Office Tower must enter the building through the Broad Street lobby. Visitors will be required to register at the security desk by showing government-issued photo identification and pass through a magnetometer. Visitors' belongings, such as purses and backpacks, are subject to inspection.