

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5123-9-19

Rule Type: Amendment

Rule Title/Tagline: 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.

Agency Name: Department of Developmental Disabilities

Division:

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I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date? 2/1/2025
2. Is this rule the result of recent legislation? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor? HB 110 - 134
- Representative Oelslager
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 5123.04, 5123.049
5. What statute(s) does the rule implement or amplify? 5123.04, 5123.049, 5166.21
6. What are the reasons for proposing the rule?

The Department is amending the rule to increase the budget limitations in Appendix B to accommodate the increases being made to payment rates for the services.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

The rule 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 Medicaid Home and Community-Based Services waivers administered by the Department. The Department is amending the rule to increase the budget limitations in Appendix B to accommodate the increases being made to payment rates for the services. Additional amendments are being made to update citations to the Administrative Code.

8. Does the rule incorporate material by reference? Yes

9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

The incorporated references are to the Revised Code and the Administrative Code. Pursuant to Section 121.75 of the Revised Code, the requirements in Sections 121.71 to 121.74 do not apply. The Revised Code and the Administrative Code are available at libraries and on the internet at <http://codes.ohio.gov>. The Department's administrative rules are also available at dodd.ohio.gov.

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will increase expenditures.

\$127 million

House Bill 110 of the 134th General Assembly increased the Department's appropriations by approximately \$42 million in fiscal year 2022 and \$85 million in fiscal year 2023 to fund a 4% increase in the payment rates for adult day services and residential services provided to persons enrolled in Department-administered

Home and Community-Based Services (HCBS) waivers. The impact of the payment rate increases is not projected for each specific HCBS service because the impact will depend on the volume of each service to be used, which is unknown at this time.

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

The rule requires county boards of developmental disabilities to ensure an Acuity Assessment Instrument is completed for each individual receiving an adult day service, assign the individual to groups for purposes of provision of services, determine the individual's budget limitations, authorize payment for services, communicate information about these processes and outcomes to individuals being served, and assist individuals to request administrative review by the Department. The rule requires providers of Adult Day Support, Group Employment Support, and Vocational Habilitation to ensure and document that sufficient staff are engaged in provision of the services. These activities consume staff resources, the cost of which varies by county board of developmental disabilities/provider based on multiple factors (e.g., number and nature of individuals served, number of staff employed, and staff wages and benefits) and is unknown by the Department.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable.

III. Common Sense Initiative (CSI) Questions

16. Was this rule filed with the Common Sense Initiative Office? Yes

17. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

- C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** Yes

Paragraph (E)(5) requires providers of Adult Day Support, Group Employment Support, and Vocational Habilitation to document that sufficient staff are engaged in provision of the services to ensure the health and safety and achievement of outcomes identified in the Individual Service Plans of individuals being served.

- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. **Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95?** Yes

- A. **How many new regulatory restrictions do you propose adding?** 0
- B. **How many existing regulatory restrictions do you propose removing?** 1

5123-9-19 (B)(5) REVISED FROM:

"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.

TO:

"Agency provider" has the same meaning as in rule 5123-2-08 of the Administrative Code.