

## 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? No
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 rule is being amended to make clear that the budget limitations in Appendix B apply only to services provided under the Individual Options Waiver, align wording with newer rules, and update a citation to an administrative rule.

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 Home and Community-Based Services waivers administered by the Department. The rule is being amended to make clear that the budget limitations in Appendix B apply only to services provided under the Individual Options Waiver, align wording with newer rules, and update a citation to an administrative rule.

- 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](http://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 have no impact on revenues or expenditures.

\$ 0

Amending the rule will neither increase nor decrease revenues or expenditures of the Department.

- 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? 3

5123-9-19 (B) REVISED FROM:

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

TO:

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

5123-9-19 ELIMINATED PARAGRAPH (D)(5):

Prior state level review shall not be required for the initiation and/or changes in services that can occur within the budget limitation resulting from a revision to the individual service plan that has been agreed to by an individual through the individual service plan process.

5123-9-19 ELIMINATED PARAGRAPH (F)(2):

When the annual cost for adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation exceeds the assigned budget limitation, the service and support administrator shall inform the individual of his or her right to request an administrative review to obtain adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation services that result in a new group assignment and budget limitation that exceeds the budget limitation determined initially by the county board in accordance with paragraph (C) of this rule.