

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5123-9-30

**Rule Type:** Amendment

**Rule Title/Tagline:** Home and community-based services waivers - homemaker/ personal care under the individual options and level one waivers.

**Agency Name:** Department of Developmental Disabilities

**Division:**

**Address:** 30 East Broad Street, 12th Floor Columbus OH 43215-3414

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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?** 7/5/2023
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 166 - 133  
- 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, 5123.1611
5. **What statute(s) does the rule implement or amplify?** 5123.04, 5123.045, 5123.049, 5123.16, 5123.161, 5123.1611, 5166.21
6. **What are the reasons for proposing the rule?**

The Department is amending the rule to increase the rates paid to providers of Homemaker/Personal Care.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule defines Homemaker/Personal Care and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The Department is amending the rule to increase the rates paid to providers of Homemaker/Personal Care and to clarify the definition of "on-site/on-call."

- 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 Administrative Code, the Revised Code, the Ohio Constitution, and a Department form, which are exempt pursuant to Section 121.75 of the Revised Code. The Administrative Code, the Revised Code, and the Ohio Constitution are available at libraries and on the internet. The Department form (Application of Appendix A to rule 5123-9-30) is available at the Department's website (<https://dodd.ohio.gov/wps/portal/gov/dodd/forms-and-rules/rules-under-development/3-%2Bpublic-hearings-scheduled-for-proposed-rules>).

- 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.

\$304.8 million

Increasing payment rates for providers of Homemaker/Personal Care is projected to increase the Department's expenditures in the current biennium by \$304.8 million

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

The rule requires a person or agency seeking approval to provide Homemaker/Personal Care to submit an application and supporting documentation to the Department and obtain a Medicaid provider agreement from the Ohio Department of

Medicaid. The rule requires a provider of services to maintain service documentation. These activities consume applicant/provider resources, the cost of which varies by applicant/provider and is unknown to the Department. Paragraphs (C) and (F) require persons providing the service to be trained. Training consumes staff resources and there may be a cost associated with obtaining the training from another entity. Paragraph (D)(1) requires a provider of services to participate in Individual Service Plan (ISP) development meetings when requested by the individual receiving services. Time spent by providers in ISP meetings varies, cannot be billed to a Home and Community-Based Services waiver, and is unknown to the Department.

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**
- 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? Yes**

Paragraph (C)(1) requires a provider of Homemaker/Personal Care to be certified by the Department and have a Medicaid provider agreement with the Ohio Department of Medicaid.
  - 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? Yes**

Paragraph (C)(7) sets forth that failure of a certified provider to comply with this rule and rule 5123:2-2-01 may result in denial, suspension, or revocation of the provider's certification.

Paragraph (C)(8) sets forth that failure of a licensed provider to comply with this rule and Chapter 5123:2-3 of the Administrative Code may result in denial, suspension, or revocation of the provider's license.

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

Paragraph (E) requires a provider of services to maintain service documentation.

- 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**

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	No
<b>D. City and Village Governments</b>	No

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

County boards of developmental disabilities agreed to a first-of-its-kind partnership with the Department to jointly invest in higher wages for Direct Support Professionals who deliver the services. Statewide, county boards of developmental disabilities committed \$10.6 million annually beginning in Fiscal Year 2021 to support this initiative.

**3. Is this rule the result of a federal government requirement? No**

- A. If yes, does this rule do more than the federal government requires? *Not Applicable***
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

**4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

**A. Personnel Costs**

Not applicable.

**B. New Equipment or Other Capital Costs**

Not applicable.

**C. Operating Costs**

County boards of developmental disabilities agreed to a first-of-its-kind partnership with the Department to jointly invest in higher wages for Direct Support Professionals who deliver the services. Statewide, county boards of developmental disabilities committed \$10.6 million annually beginning in Fiscal Year 2021 to support this initiative.

**D. Any Indirect Central Service Costs**

Not applicable.

**E. Other Costs**

Not applicable.

**5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

County boards of developmental disabilities committed local levy dollars to pay for their share of this historic partnership.

**6. What will be the impact on economic development, if any, as the result of this rule?**

Increasing the wages paid to Direct Support Professionals may boost local economies.