

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

Contact: Becky Phillips **Phone:** 614-644-7393

Email: becky.phillips@dodd.ohio.gov

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?** No
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 remove redundant training requirements for staff who provide 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 rule is being amended to eliminate paragraphs (C)(5) and (C)(6) because the training described therein is addressed in new rules 5123-2-08 (Provider Certification - Agency Providers) and 5123-2-09 (Provider Certification - Independent Providers). Additional amendments are being made to update citations to administrative rules and eliminate paragraph (F)(13).

- 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 Ohio Constitution, 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 Ohio Constitution is available at libraries and on the internet at <https://www.legislature.ohio.gov/laws/ohio-constitution>. 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.**

STRUCK PARAGRAPH (F)(13):

Under the level one waiver, homemaker/personal care is subject to the payment limitation set forth in paragraph (D)(1) of rule 5123-9-06 of the Administrative Code.

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

The amendments being made 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 a person or agency seeking approval to provide Homemaker/ Personal Care to submit an application to the Department and have a Medicaid provider agreement with 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. 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). 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? Yes**

Paragraph (C) requires a provider of services to have a Medicaid Provider Agreement with the Ohio Department of Medicaid and be certified or licensed by the Department.

- 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) sets forth that failure to comply with this rule and other rules may result in denial, suspension, or revocation of the provider's certification or license.

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

Paragraph (E) requires a provider 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

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? 4

(C)(5): Each direct services staff member of an agency provider shall successfully complete on-the-job training specific to each individual he or she serves that includes:

(C)(6): Each independent provider and each direct services staff member of an agency provider shall annually complete at least eight hours of training, in accordance with standards established by the department.

(C)(6)(a): The training shall enhance the skills and competencies of the independent provider or direct services staff member relevant to his or her job responsibilities and shall include, but is not limited to:

(C)(6)(c): The provider shall maintain a written record, which may include an electronic record, of training. This information shall be presented upon request by the Ohio department of medicaid, the department, or the county board. Documentation shall include the name of the person receiving the training, date of training, training topic, duration of training, instructor's name if applicable, and a brief description of the training.