

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5123-9-32

Rule Type: Amendment

Rule Title/Tagline: Home and community-based services waivers - participant-directed homemaker/personal care under the individual options, level one, and self-empowered life funding 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? 1/1/2024
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 payment rates for providers of Participant-Directed Homemaker/Personal Care, require providers of Participant-Directed Homemaker/Personal Care to utilize electronic visit verification in accordance

with rule 5160-1-40 of the Administrative Code, and correct citations to administrative rules.

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

The rule defines Participant-Directed 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 payment rates for providers of Participant-Directed Homemaker/Personal Care, require providers of Participant-Directed Homemaker/Personal Care to utilize electronic visit verification in accordance with rule 5160-1-40 of the Administrative Code, and correct citations to administrative rules.

- 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.

\$250,000

Increasing payment rates for providers of Participant-Directed Homemaker/Personal Care is projected to increase the Department's expenditures in the current

biennium by \$250,000. This amount however, is being funded by county boards of developmental disabilities.

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 Participant-Directed 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. The rule requires 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.

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)(3) requires a provider of Participant-Directed 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)(9) sets forth that failure of a provider of Participant-Directed Homemaker/Personal Care to comply with this rule and rule 5123:2-2-01 of

the Administrative Code may result in denial, suspension, or revocation of the provider's certification.

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

Paragraph (E) requires a provider of Participant-Directed Homemaker/Personal Care 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? 1**

(D)(1): A provider delivering participant-directed homemaker/personal care in accordance with this rule, excluding on-site/on-call, shall utilize electronic visit verification in accordance with rule 5160-1-40 of the Administrative Code. [Please note: The federal Centers for Medicare and Medicaid Services requires Ohio to implement electronic visit verification.]

- B. How many existing regulatory restrictions do you propose removing? 0**

Rule Summary and Fiscal Analysis

Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	No
B. County Government	Yes
C. Township Government	No
D. City and Village Governments	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 committed local levy funds to pay for this increase which is projected to cost \$500,000 annually.

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 committed local levy funds to pay for this increase which is projected to cost \$500,000 annually.

D. Any Indirect Central Service Costs

Not applicbale.

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 funds.

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

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