

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:

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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?** 1/1/2024
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 update training requirements to align wording with new rule 5123-2-09 (Provider Certification - Independent Providers).
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. Paragraph (C)(5)(b) is being amended to align wording with new rule 5123-2-09 (Provider Certification - Independent Providers). Additional amendments are being made to update citations to administrative rules and eliminate paragraph (F)(9).

- 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.**

REVISED PARAGRAPH (F)(5)(a)(i) FROM:

The individual requires routine feeding and/or the administration of prescribed medication through gastrostomy and/or jejunostomy tubes, and/or requires the administration of routine doses of insulin through subcutaneous injections and insulin pumps; or

TO:

The individual requires routine feeding and/or the administration of prescribed medication through gastrostomy or jejunostomy tube, and/or requires the administration of routine doses of insulin through subcutaneous injection or insulin pump; or

STRUCK PARAGRAPH (F)(9): Under the level one waiver, participant-directed 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 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.

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)(3) requires a provider of Participant-Directed Homemaker/Personal Care to have a Medicaid Provider Agreement with the Ohio Department of Medicaid.

Paragraph (C)(5) requires a provider of Participant-Directed Homemaker/Personal Care to be certified 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)(9) sets forth that failure of a provider to comply with this rule and as applicable, rule 5123-2-08 or 5123-2-09 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 to maintain service documentation and submit information.

- 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? No**

- A. How many new regulatory restrictions do you propose adding?**

Not Applicable

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

Not Applicable