

Rule Summary and Fiscal Analysis (Part A)**Department of Developmental Disabilities**

Agency Name

Community Services

Division

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5123:2-9-14

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

**Home and community-based services waivers - vocational
habilitation under the individual options, level one, and
self-empowered life funding waivers.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **5123.04, 5123.049, 5123.1611**
5. Statute(s) the rule, as filed, amplifies or implements: **5123.04, 5123.045, 5123.049, 5123.16, 5123.161, 5123.1611, 5166.21**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Department is rescinding the existing rule and bringing forth a new replacement rule of the same number.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule defines Vocational Habilitation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The incorporated references are to the Fair Labor Standards Act, the Rehabilitation Act, the Workforce Innovation and Opportunity Act, the Code of Federal Regulations, and the United States Code which are generally available to the public at law libraries, depository libraries, and on the internet.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

PARAGRAPH (B)(7) REVISED FROM:

"Daily billing unit" means a billing unit that shall be used when between five and seven hours of vocational habilitation are delivered by the same provider to the same individual during one calendar day and the individual does not qualify for the behavioral support rate modification in accordance with paragraph (F)(6) of this

rule or the medical assistance rate modification in accordance with paragraph (F)(7) of this rule.

TO:

"Daily billing unit" means a billing unit that may be used when between five and seven hours of vocational habilitation are delivered by the same provider to the same individual during one calendar day in accordance with the conditions specified in paragraph (F)(2) of this rule.

PARAGRAPH (F)(2) REVISED FROM:

A provider of vocational habilitation shall use the daily billing unit when the provider delivers between five and seven hours of vocational habilitation to the same individual during one calendar day and the individual does not qualify for the behavioral support rate modification in accordance with paragraph (F)(6) of this rule or the medical assistance rate modification in accordance with paragraph (F)(7) of this rule.

TO:

A provider of vocational habilitation may use the daily billing unit when the provider delivers between five and seven hours of vocational habilitation to the same individual during one calendar day and:

ADDED NEW PARAGRAPH (F)(2)(a):

The individual does not qualify for or the provider elects not to receive the behavioral support rate modification described in paragraph (F)(6) of this rule;

ADDED NEW PARAGRAPH (F)(2)(b):

The individual does not qualify for or the provider elects not to receive the medical assistance rate modification described in paragraph (F)(7) of this rule; and

ADDED NEW PARAGRAPH (F)(2)(c):

The provider does not qualify for or elects not to receive the community integration rate modification described in paragraph (F)(8) of this rule.

PARAGRAPH (F)(3)(b) REVISED FROM:

The individual being served qualifies for the behavioral support rate modification in accordance with paragraph (F)(6) of this rule;

TO:

The individual being served qualifies for and the provider elects to receive the behavioral support rate modification in accordance with paragraph (F)(6) of this

rule;

PARAGRAPH (F)(3)(c) REVISED FROM:

The individual being served qualifies for the medical assistance rate modification in accordance with paragraph (F)(7) of this rule; or

TO:

The individual being served qualifies for and the provider elects to receive the medical assistance rate modification in accordance with paragraph (F)(7) of this rule; or

PARAGRAPH (F)(6) REVISED FROM:

Payment rates for vocational habilitation at the fifteen-minute billing unit shall be adjusted by the behavioral support rate modification to reflect the needs of an individual requiring behavioral support upon determination by the department that the individual meets the criteria set forth in paragraph (F)(6)(a) of this rule. The amount of the behavioral support rate modification applied to each fifteen-minute billing unit of service is contained in the appendix to this rule.

TO:

Payment rates for vocational habilitation at the fifteen-minute billing unit shall be eligible for adjustment by the behavioral support rate modification to reflect the needs of an individual requiring behavioral support upon determination by the department that the individual meets the criteria set forth in paragraph (F)(6)(a) of this rule. The amount of the behavioral support rate modification applied to each fifteen-minute billing unit of service is contained in appendix A to this rule.

PARAGRAPH (F)(7) REVISED FROM:

Payment rates for vocational habilitation at the fifteen-minute billing unit shall be adjusted by the medical assistance rate modification to reflect the needs of an individual requiring medical assistance upon determination by the county board that the individual meets the criteria set forth in paragraph (F)(7)(a) of this rule. The amount of the medical assistance rate modification applied to each fifteen-minute billing unit of service is contained in the appendix to this rule.

TO:

Payment rates for vocational habilitation at the fifteen-minute billing unit shall be eligible for adjustment by the medical assistance rate modification to reflect the needs of an individual requiring medical assistance upon determination by the county board that the individual meets the criteria set forth in paragraph (F)(7)(a) of this rule. The amount of the medical assistance rate modification applied to each fifteen-minute billing unit of service is contained in appendix A to this rule.

PARARAGRAPH (F)(8) REVISED FROM:

Payment rates for vocational habilitation at the fifteen-minute billing unit shall be adjusted by the community integration rate modification when the service is provided in integrated settings in groups of four or fewer individuals and the staff providing the service have demonstrated enhanced competency by successfully completing a department-administered program of instruction in community integration. The amount of the community integration rate modification applied to each fifteen-minute billing unit of service is contained in appendix A to this rule.

TO:

Payment rates for vocational habilitation at the fifteen-minute billing unit shall be eligible for adjustment by the community integration rate modification when the service is provided in integrated settings in groups of four or fewer individuals and the staff providing the service have demonstrated enhanced competency by successfully completing a department-administered program of instruction in community integration. The amount of the community integration rate modification applied to each fifteen-minute billing unit of service is contained in appendix A to this rule.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$ 0

Rescinding the existing rule and bringing forth a new replacement rule is not expected to increase or decrease revenues or expenditures for the Department during the current biennium.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

653407

653606

653607

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653639

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Rescinding the existing rule and bringing forth a new replacement rule is not expected to have an impact.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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) sets forth that a provider of Vocational Habilitation shall 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)(11) sets forth that failure to comply with this rule and rule 5123:2-2-01 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 (C)(3) requires a provider to complete and submit an application for certification to the Department.

Paragraph (D)(5) requires a provider of Vocational Habilitation to notify the Department when there is a change in the physical address of any facility where Vocational Habilitation takes place.

Paragraph (D)(6) requires a provider of Vocational Habilitation to complete reports and collect and submit data to the Department.

Paragraph (D)(11) requires a provider of Vocational Habilitation to report information to the individual's Service and Support Administrator.

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