



Department of
Developmental Disabilities

NOTICE OF PUBLIC HEARING

DATE: November 16, 2018

TIME: 10:00 a.m.

PLACE: Lobby Hearing Room
Rhodes State Office Tower
30 East Broad Street
Columbus, Ohio 43215

The Ohio Department of Developmental Disabilities hereby gives notice of its intent to rescind, adopt, and amend the following rules of the Administrative Code on a permanent basis on or about January 1, 2019, and to conduct a public hearing thereon.

The Department is rescinding rule 5123:2-9-06 (Home and Community-Based Services Waivers - Documentation and Payment for Services Under the Individual Options and Level One Waivers) and adopting a new replacement rule of the same title numbered 5123-9-06. The rules establish standards governing documentation and payment for Home and Community-Based Services under the Individual Options Waiver and Level One Waiver components of the Medicaid program that the Department administers pursuant to Section 5166.21 of the Revised Code. Paragraph (D) of new rule 5123-9-06 reflects adjustments made to Level One Waiver payment limitations. Additional changes were made to update waiver service names and administrative rule numbers.

The Department is rescinding rule 5123:2-9-13 (Home and Community-Based Services Waivers - Career Planning Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers) and adopting a new replacement rule of the same title numbered 5123-9-13. The rules define Career Planning and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. New rule 5123-9-13 reflects elimination of the Assistive Technology Assessment component of the Career Planning service, because that component will instead be covered under the new Assistive Technology service described in new rule 5123-9-12. Additionally, new rule 5123-9-13 reflects a payment rate increase for the Benefits Education and Analysis component of Career Planning.

The Department is rescinding rule 5123:2-9-20 (Home and Community-Based Services Waivers - Money Management Under the Individual Options and Level One Waivers) and adopting a new replacement rule of the same title numbered 5123-9-20. The rules define Money Management and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of new rule 5123-9-20 reflects adjustments made to the Level One Waiver payment limitations.

The Department is rescinding rule 5123:2-9-21 (Home and Community-Based Services Waivers - Informal Respite Under the Level One Waiver) and adopting a new replacement rule of the same title numbered 5123-9-21. The rules define Informal Respite and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of new rule 5123-9-21 reflects adjustments made to the Level One Waiver payment limitations.

The Department is rescinding rule 5123:2-9-23 (Home and Community-Based Services Waivers - Environmental Accessibility Adaptations Under the Individual Options and Level One Waivers) and adopting a new replacement rule of the same title numbered 5123-9-23. The rules define Environmental Accessibility Adaptations and set

forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of new rule 5123-9-23 reflects adjustments made to the Level One Waiver payment limitations.

The Department is rescinding rule 5123:2-9-24 (Home and Community-Based Services Waivers - Transportation Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers) and adopting a new replacement rule of the same title numbered 5123-9-24. The rules define Transportation and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of new rule 5123-9-24 reflects adjustments made to the Level One Waiver payment limitations.

The Department is rescinding rule 5123:2-9-29 (Home and Community-Based Services Waivers - Home-Delivered Meals Under the Individual Options and Level One Waivers) and adopting a new replacement rule of the same title numbered 5123-9-29. The rules define Home-Delivered Meals and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of new rule 5123-9-29 reflects adjustments made to the Level One Waiver payment limitations.

The Department is rescinding rule 5123:2-9-31 (Home and Community-Based Services Waivers - Homemaker/Personal Care Daily Billing Unit for Sites Where Individuals Enrolled in the Individual Options Waiver Share Services) and adopting a new replacement rule of the same title numbered 5123-9-31. The rules establish a daily billing unit for Homemaker/Personal Care when individuals share the services of the same agency provider at the same site as part of the Individual Options Waiver administered by the Department. New rule 5123-9-31 reflects changes made to simplify calculation of the daily rate paid to providers, thereby reducing the administrative costs associated with projecting and adjusting the cost of services to be apportioned to each individual who lives at a site.

The Department is rescinding rule 5123:2-9-32 (Home and Community-Based Services Waivers - Participant-Directed Homemaker/Personal Care Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers) and adopting a new replacement rule of the same title numbered 5123-9-32. The rules define Participant-Directed Homemaker/Personal Care and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of new rule 5123-9-32 reflects adjustments made to the Level One Waiver payment limitations. Additionally, the Appendix has been revised to reflect that the payment rate for On-Site/On-Call Participant-Directed Homemaker/Personal Care provided by Common Law Employees is the equivalent of minimum wage plus thirteen percent to cover employer-related expenses.

The Department is rescinding rule 5123:2-9-35 (Home and Community-Based Services Waivers - Remote Monitoring and Remote Monitoring Equipment Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Remote Monitoring and Remote Monitoring Equipment and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the services. The Remote Monitoring service is being renamed and replaced by Remote Support described in new rule 5123-9-35. The Remote Monitoring Equipment service is being eliminated because the equipment will instead be covered under the new Assistive Technology service described in new rule 5123-9-12.

The Department is adopting new rule 5123-9-35 (Home and Community-Based Services Waivers - Remote Support Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Remote Support and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. New rule 5123-9-35 reflects the renaming of Remote Monitoring to Remote Support and clarifies roles of Remote Support providers, Remote Support vendors, and backup support persons.

The Department is rescinding rule 5123-9-26 (Home and Community-Based Services Waivers - Personal Emergency Response Systems Under the Level One Waiver). The rule defines Personal Emergency Response Systems and sets forth provider qualifications, requirements for service delivery and documentation of services and payment standards for the service. The Personal Emergency Response Systems service is being eliminated because the equipment will instead be covered under the new Assistive Technology service described in new rule 5123-9-12.

The Department is adopting new rule 5123-9-12 (Home and Community-Based Services Waivers - Assistive Technology Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Assistive Technology and sets forth provider qualifications, requirements for service delivery and documentation of services and payment standards for the service. Assistive Technology is a new service that will replace Personal Emergency Response Systems, Remote Monitoring Equipment, and the Assistive Technology Assessment component of Career Planning.

The Department is adopting new rule 5123-9-48 (Home and Community-Based Services Waivers - Community Transition Under the Individual Options Waiver). The rule defines Community Transition and sets forth provider qualifications, requirements for service delivery and documentation of services and payment standards for the service. Community Transition is a new service that will be available for an individual who resided in an Intermediate Care Facility for Individuals with Intellectual Disabilities or a Nursing Facility and is transitioning to enrollment in the Individual Options Waiver.

The Department is amending rule 5123-9-22 (Home and Community-Based Services Waivers - Community Respite Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Community Respite and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of the rule is being amended to reflect adjustments made to the Level One Waiver payment limitations.

The Department is amending rule 5123-9-25 (Home and Community-Based Services Waivers - Specialized Medical Equipment and Supplies Under the Individual Options and Level One Waivers). The rule defines Community Respite 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 distinguish Specialized Medical Equipment and Supplies from the new Assistive Technology service described in new rule 5123-9-12 and to reflect adjustments made to the Level One Waiver payment limitations.

The Department is amending rule 5123:2-9-30 (Home and Community-Based Services Waivers - Homemaker/Personal Care Under the individual Options and Level One Waivers). 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. Paragraph (F) of the rule is being amended to reflect adjustments made to the Level One Waiver payment limitations.

The Department is amending rule 5123-9-34 (Home and Community-Based Services Waivers - Residential Respite Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Residential Respite and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraph (F) of the rule is being amended to reflect adjustments made to the Level One Waiver payment limitations.

The Department is rescinding rule 5123:2-17-02 (Addressing Major Unusual Incidents and Usual Incidents to Ensure Health, Welfare, and Continuous Quality Improvement) and adopting a new replacement rule of the same title numbered 5123-17-02. The rules establish requirements for addressing Major Unusual Incidents and Unusual Incidents and implements a continuous quality improvement process to prevent or reduce the risk of harm to individuals with developmental disabilities. New rule 5123-17-02 reflects suggestions offered by stakeholders including:

- Definitions of several Major Unusual Incidents (MUIs)—Medical Emergency, Neglect, Peer-to-Peer Act, Physical Abuse, Unapproved Behavioral Support, and Unanticipated Hospitalization—were revised.
- A definition of "team" was added.
- Peer-to-Peer Act MUIs were reassigned from Category A to Category B.
- The concepts of "program implementation incident" and "systems issue" were defined and addressed.
- Language in paragraph (D) regarding MUI reporting timelines was clarified.
- Rule wording was streamlined where possible.
- Paragraph (L) was revised to eliminate semi-annual reporting and analysis of MUI trends and patterns.
- Detail regarding reporting and investigation of Unusual Incidents was added to paragraph (M).
- The investigation protocols included as appendices to the rule were revised.

At this public hearing, the Department will accept verbal and/or written testimony on the proposed rule actions. Persons unable to attend the public hearing may submit written comments on the proposed rule actions. Any written comments received on or before the public hearing date will be treated as testimony and made available for public review. Submittal of written comments may be made to Becky Phillips, Administrative Rules Coordinator, by email to becky.phillips@dodd.ohio.gov or by U.S. mail to 30 East Broad Street, 12th Floor, Columbus, Ohio 43215-3414.

The rules are available for review at the Register of Ohio website (<http://registerofohio.state.oh.us>) and at the Department's website (<http://dodd.ohio.gov/RulesLaws/Pages/Rules-Under-Development.aspx>). The rules are also available for review at each county board of developmental disabilities.