

**Department of
Developmental Disabilities**

Mike DeWine, Governor
Jeff Davis, Director

NOTICE OF PUBLIC HEARING

DATE: August 31, 2021
TIME: 10:00 a.m.
PLACE: Lobby Hearing Room
Rhodes State Office Tower *
30 East Broad Street
Columbus, Ohio 43215

Pursuant to Chapter 119. of the Revised Code, 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 October 15, 2021, and to conduct a public hearing thereon. At this public hearing, the Department will accept verbal and/or written testimony regarding the proposed rule actions.

Persons unable to attend the public hearing may submit written comments regarding 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 (becky.phillips@dodd.ohio.gov) or by U.S. mail to 30 East Broad Street, 12th Floor, Columbus, Ohio 43215-3414.

Based on the five-year rule review:

The Department is rescinding rule 5123:2-7-08 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Bed Hold Days) and adopting replacement rule 5123-7-08 of the same title. The rule establishes requirements and procedures for an Intermediate Care Facility for Individuals with Intellectual Disabilities to be reimbursed for reserving a bed for a resident who is temporarily absent. Rule 5123-7-08 reflects updated citations to administrative rules and revisions necessary to align paragraph (E) with the existing practice for authorizing additional bed-hold days.

In response to directives issued by the federal Centers for Medicare and Medicaid Services (CMS):

The Department is amending 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. In accordance with the CMS directive, the rule is being amended to make clear that internet service is not covered. Additional amendments are being made to update citations to administrative rules.

The Department is amending 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. In accordance with the CMS directive, the rule is being amended to make clear that groceries and internet service are not covered. Additional amendments are being made to update citations to administrative rules.

On June 17, 2021, pursuant to [Executive Order 2021-07D](#), the Department emergency-filed rules governing Home and Community-Based Services waivers to continue to provide regulatory relief throughout

the developmental disabilities service delivery system after the COVID-19 state of emergency was lifted. At this time, the Department is filing four rules through the typical process to ensure the same regulatory relief is available on an ongoing basis:

The Department is amending rule 5123-9-06 (Home and Community-Based Services Waivers - Documentation and Payment for Services Under the Individual Options and Level One Waivers). The rule establishes standards governing documentation and payment for services under the Individual Options Waiver and Level One Waiver components of the Medicaid program that the Ohio Department of Developmental Disabilities administers pursuant to section 5166.21 of the Revised Code. Paragraph (D), which sets forth payment limitations under the Level One Waiver, is being eliminated so that people may continue to access available Waiver funding to receive the services they need. Additional amendments are being made to update citations to administrative rules and eliminate paragraph (M).

The Department is amending rule 5123-9-14 (Home and Community-Based Services Waivers - Vocational Habilitation Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Vocational Habilitation and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraphs (B)(21) and (D)(5) are being revised and new paragraph (D)(6) added so people can receive Vocational Habilitation through virtual support. A definition of "virtual support" is being added as paragraph (B)(20). Additional amendments are being made to remove redundant training requirements, replace the Community Integration Rate Modification with an enhanced payment rate for providing services in an integrated community setting, update citations to administrative rules, and eliminate paragraph (G).

The Department is amending rule 5123-9-17 (Home and Community-Based Services Waivers - Adult Day Support Under the Individual Options, Level One, and Self-Empowered Life Funding Waivers). The rule defines Adult Day Support and sets forth provider qualifications, requirements for service delivery and documentation of services, and

payment standards for the service. Paragraphs (B)(1) and (D)(4) are being revised and new paragraph (D)(5) added so people can receive Adult Day Support through virtual support. A definition of "virtual support" is being added as paragraph (B)(20). Additional amendments are being made to remove redundant training requirements, replace the Community Integration Rate Modification with an enhanced payment rate for providing services in an integrated community setting, update citations to administrative rules, and eliminate paragraph (H).

The Department is amending rule 5123-9-33 (Home and Community-Based Services Waivers - Shared Living Under the Individual Options Waiver). The rule defines Shared Living and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. Paragraphs (D)(10) and (F)(5) are being revised to permit an individual to receive Shared Living and Homemaker/Personal Care on the same day as long as the services are not delivered at the same time or by the same person. This is necessary to permit additional flexibility to people receiving services and their caregivers. Additional amendments are being made to update citations to administrative rules and eliminate paragraph (H).

The rules are available for review at the [Register of Ohio](#) and at the [Department's website](#). The rules are also available for review at each county board of developmental disabilities.

- * Please note that visitors to the Rhodes State Office Tower must enter the building through the Broad Street lobby. Visitors may be required to register at the security desk by showing government-issued photo identification and/or pass through a magnetometer. Visitors' belongings, such as purses and briefcases, may be subject to inspection.