

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Medicaid

Regulation/Package Title: BLTCSS PASSPORT: Covered Services and Rates
Rule Number(s): 5160-31-07

(The following rules are attached for informational purposes only: rule 5160-1-06.1 and 5160-31-05.)

Date: October 14, 2016

Rule Type:

New

5-Year Review

Amended X

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

OAC Rule 5160-31-07 describes the rate setting methods used to determine provider rates for all services available through the PASSPORT waiver.

The proposed amendments to the rule include the following:

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- Eliminate the personal care service from the list of services subject to a regional rate methodology and
- Apply the statewide rate methodology to all personal care services regardless of the provider type.
- Add the rate setting methodology for a new service: Shared Living.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Ohio Revised Code Section 5166.02.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

Yes. Payments for HCBS waiver services must be consistent with the provisions of §1902(a)(30)(A) of the Social Security Act and the related Federal regulations at 42 CFR §447.200-205. The amended rule will enable the state to continue to operate the PASSPORT waiver in accordance with the federal requirements.

Resource: <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/rate-setting-methodology.pdf>

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The rule does not include provisions not specifically required by the federal requirements outlined §1902(a)(30)(A) of the Social Security Act, the related Federal regulations at 42 CFR §447.200-205, or the federally approved PASSPORT waiver.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose of the amended rule is to provide the business communities with current information on the rate setting methodologies employed to determine the maximum billing reimbursement for PASSPORT covered services listed in OAC 5160-1-06.1, Appendix A.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Success outputs are measured through a finding of compliance with the provider's billing practices as determined by the provider monitoring and oversight function.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Initially, ODM collaborated with the state partner agency, Ohio Department of Aging, to development the draft regulation. This work began in January 2016.

The following stakeholders were initially contacted in August 2016 and provided with copies of the draft regulation for review and comment: Leading Age Ohio, Ohio Council for Home Care and Hospice, three Medicare certified home health agencies which furnish the PASSPORT personal care service, one non-profit organization representing non-skilled home care agencies which furnishes the PASSPORT personal care service, Ohio Area Agencies on Aging, five PASSPORT Administrative Agencies, and three consumer-directed individual providers.

In addition, the proposed changes were distributed to the members of the ODM HCBS Rules workgroup to provide an opportunity for review and comment. This workgroup is comprised of the stakeholders listed below.

AARP

Brain Injury Association of Ohio

Caregiver Homes

CareSource

CareStar

Council on Aging

Disability Rights Ohio

Easter Seals of Ohio

Help 4 Seniors

Individuals served through the Ohio Medicaid program, including HCBS waivers

LeadingAge Ohio

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LEAP

Molina Healthcare

NAMI Ohio

Ohio Academy of Senior Health Sciences, Inc.

Ohio Assisted Living Association

Ohio Association of Area Agencies on Aging

Ohio Association of County Behavioral Health Authorities

Ohio Association of Senior Centers

Ohio Council for Home Care and Hospice

Ohio Council of Behavioral Health & Family Services Providers

Ohio Department of Developmental Disabilities

Ohio Health Care Association

Ohio Long Term Care Ombudsman

Ohio Olmstead Task Force

Public Consulting Group (PCG) (provider oversight contractor)

Senior Resource Connection

United Healthcare

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Based on input provided by stakeholders, ODM made the following technical edits to the draft regulation:

- *Replace “consumer” with “individual” in paragraphs (E)(3)(b) and (F)(2)*
- *Delete “except personal care services provided under paragraph (F)(1)(f)” from paragraph (C)(3).*

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Extensive data analysis was completed on the service utilization trends related to length and frequency of visits. The results were used to inform the modifications to the rates.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn’t the Agency consider regulatory alternatives?

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No alternatives were considered. The proposed rule language is necessary to implement the addition of the new service and the rate increase in such a way as they could be reimbursed by Ohio Medicaid.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

The Agency did not specifically consider a performance-based regulation. The rule is intended to educate providers on the methods used to determine provider rates in the PASSPORT program and outline the conditions under which an eligible provider will be reimbursed for services and the billing maximums of those services.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The rule was reviewed by policy and legal staff at ODM. There are no other regulations in the Medicaid program that define the methods used to determine provider rates in the PASSPORT program.

Further, under Ohio Revised Code Section 5162.03, ODM is the single state agency to supervise the administration of the Medicaid program, and under Ohio Revised Code Section 5162.022, ODM's regulations governing Medicaid are binding on other agencies that administer components of the Medicaid program. No agency may establish, by rule or otherwise, a policy governing Medicaid that is inconsistent with a Medicaid policy established, in rule or otherwise, by the medical assistance director.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Initial notification of rule promulgation will occur using standard communication methods including, but not limited to publication of the rules on the ODM webpage and emails to ODM-administered waiver stakeholder groups including state agency partners. As the operating agency for the PASSPORT waiver, the Ohio Department of Aging will provide training to and oversight of the PASSPORT Administrative Agencies to ensure consistent and timely implementation.

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The business communities most likely to be impacted by the rule are Ohio Department of Aging's (ODA) designees (i.e., the 13 PASSPORT Administrative Agencies (PAA), the agency providers and consumer directed individual providers of the personal care service, and the agency provider of the new PASSPORT service.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance)

Each agency provider is required to have a contract with ODA or its designee to provide services to an individual enrolled on PASSPORT. The providers may incur administrative and legal costs in time spent in the contract review and execution process. The associated costs may vary based on the service and the provider type.

Each consumer-directed individual provider (CDIP) is required to have a signed agreement with the individual who will receive services prior to furnishing the service. The individual provider may incur costs associated with time spent obtaining the agreement, reviewing the terms of the agreement and submitting the signed agreement to the individual.

The PASSPORT Administrative Agencies were consulted and indicated the impact of the requirements is minimal. In addition, input from consumer directed individual providers concurred that the impact is minimal and not a barrier to participation.

(c) Quantify the expected adverse impact from the regulation

ODM received the following consolidated input from the Ohio Council for Home Care and Hospice, Leading Age Ohio, and three Medicare certified home health agencies that furnish the PASSPORT personal care service:

- *ODA data indicates there are 867 agency providers with a current contract, as of 9/1/2016, for the PASSPORT personal care service.*
- *"We determined that home health agencies (HHAs) will need to request enhancements for billing software changes, and depending on whether changes*

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are made by internal staff versus an outside billing vendor will determine the length of time to comply with updating the rates. Usually internal staff may take a few weeks to make changes, and external vendors may need up to 3 months to make the changes. Also, vendors must make sure that the current rates remain in effect for services on or before the last date they will be used, and the new rates would go into effect for services provided on or after the effective date.

We calculated that the enhancements would take approximately 15 hours to complete at a total cost to a HHA of \$2,625.00. Along with changes, the billing staff will need to be trained/educated to implement the new rates according to dates of service. We calculated that it would take at least 3 man hours, depending on the size of the HHs billing department or billing staff. At an hourly rate of \$25.00, this would be a total of \$75.00 per HHA. The total program administrative cost is calculated to be \$50.00 per HHA. This indicates the average per agency cost is \$2,750.

ODM identified eight consumer-directed individual providers furnishing services to individuals enrolled on PASSPORT. Three of the eight providers offered input on the impact of the requirement to obtain a signed agreement with the individual served. Each provider indicated no significant resources or time were required in order to obtain the signed agreement. No administrative or travel costs were identified and the providers reported an average wage of \$12.00/hour.

Pursuant to three-party agreements with ODM and ODA, the PASSPORT Administrative Agencies (PAAs) serve as ODA's designee. Each of these entities varies in size, infrastructure, size of caseloads and size of provider networks. ODA establishes the site operating budget for each PAA. The operating budget provides funding for waiver case management and administrative functions including maintaining HCBS waiver provider quality assurance processes. The operating budgets are calculated based on assumptions of estimated FY 2017 caseload multiplied by an estimated statewide monthly amount per consumer, and an amount for other operating, which includes provider based on FY 2016 budgets.

The PAAs estimated the approximate amount of time required to enter into a contract with a new provider is between 45 to 60 minutes per contract. The projected hourly cost per new contract is approximately \$40.00 per contract. Pursuant to the interagency agreement, the Ohio Department of Medicaid supplies administrative funding to the PASSPORT Administrative Agency (PAA) for this activity.

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The PAAs estimated the approximate amount of case management time required to negotiate unit rates of home medical equipment and to document on the person-centered service plan ranges from 30 to 60 minutes per individual. The projected hourly cost is \$40.00 per hour. Pursuant to the interagency agreement, the Ohio Department of Medicaid supplies administrative funding to the PASSPORT Administrative Agency (PAA) for this activity.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Agency determined the impact on agency and consumer-directed individuals providers is justified for the following reasons: (a) Transparency: The accessibility of the information allows the regulated business community to make an informed decision regarding participation in the PASSPORT program and stay current on any changes made to the methodology; (b) Program Integrity: the regional rate contracting process documents the billing maximum for each provider; (c) Accountability: The signed agreement process outlines the employer/employee relationship when the individual has elected self-direction.

Pursuant to the interagency agreement, the Ohio Department of Medicaid supplies administrative and waiver case management funding to the PASSPORT Administrative Agency (PAA). This funding is intended to properly supply the PAAs with enough resources to support waiver case management and provider quality assurance processes.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

In order to ensure uniform and consistent treatment of Medicaid providers, the rule does not provide any exemptions or alternative means of compliance and no exception can be made specifically for small businesses.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

There are no fines or penalties for paperwork violations associated with this regulation.

18. What resources are available to assist small businesses with compliance of the regulation?

The regulation does not require significant resources to comply, however several support services are available for small businesses who may require additional assistance understanding the methods for determining the rate. ODM has a designated web page tailored to provider enrollment and support where many resources can be found to assist all providers, including small businesses. The Ohio Department of Aging (ODA) maintains a dedicated webpage provider certification.

<http://aging.ohio.gov/resources/providerinformation>.

Businesses seeking technical assistance can contact the Medicaid Provider Hotline (1-800-686-1576) or the Ohio Department of Aging (1-800- 266-4346).

*** DRAFT - NOT YET FILED ***

5160-1-06.1

Home and community-based service waivers: PASSPORT.

- (A) The Ohio department of aging (ODA) is responsible for the daily administration of the preadmission screening system providing options and resources today (PASSPORT) medicaid waiver program. ODA will administer the waiver pursuant to an interagency agreement with the Ohio department of medicaid in accordance with section 5162.35 of the Revised Code.
- (B) The PASSPORT waiver provides home and community based services to persons aged sixty and over that require an intermediate or skilled care level of care as set forth in rule 5160-3-08 of the Administrative Code and are enrolled in the waiver.
- (C) The PASSPORT HCBS waiver services and program eligibility criteria are set forth in Chapter 5160-31 of the Administrative Code.
- (D) The maximum allowable reimbursement rates for PASSPORT HCBS waiver program services are listed in appendix A to this rule.
- (E) PASSPORT HCBS reimbursement must be provided in accordance with paragraphs (A) to (C) of rule 5160-1-60 of the Administrative Code.
- (F) An individual ~~consumer~~ may not receive community transition services with a cumulative or singular value in excess of one thousand four hundred seventy-seven dollars and fifty cents. The ~~consumer~~ individual may only access the goods and services available through the community transition service as set forth in rule 173-39-02.17 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 06/30/2019

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5166.02
Rule Amplifies: 173.52
Prior Effective Dates: 1/1/04, 7/1/06, 7/2/07 (Emer.), 10/1/07, 7/1/08 (Emer.), 9/30/08, 7/1/11 (Emer.), 9/29/11, 7/1/13 (Emer.), 9/27/13, 3/1/14, 7/1/2014

APPENDIX A
5160-1-06.1
PASSPORT WAIVER RATES

WAIVER SERVICE	BILLING MAXIMUM	UNIT
Enhanced Adult Day Service	\$49.39	1 Day
Enhanced Adult Day Service	\$24.70	1/2 Day
Enhanced Adult Day Service	\$1.55	15 minutes
Intensive Adult Day Service	\$64.84	1 Day
Intensive Adult Day Service	\$32.41	1/2 Day
Intensive Adult Day Service	\$2.03	15 minutes
Adult Day Service Transportation	\$2.22	1 mile
Adult Day Service Transportation	\$20.40	Round Trip
Meals: Home Delivered	\$6.60	1 Meal
Meals: therapeutic	\$9.33	1 Meal
Homemaker Service	\$3.84	15 minutes (1/4 hour)
Chore Service	\$2,612.47	1 Job
Social Work Counseling Service	\$16.26	15 minutes (1/4 hour)
Nutritional Consultation Service	\$13.34	15 minutes (1/4 hour)
Personal Care Services provided by ODA Certified Long-Term Care Agency Providers	\$4.49	15 minutes (1/4 hour)
Personal Care Services provided by ODA Certified Consumer-Directed Personal Care Provider	\$3.13	15 minutes (1/4 hour)
Home Medical Equipment and Supplies: Ambulatory	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Ambulatory- Second One	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Third One	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Non- Ambulatory	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Non- Ambulatory- Second one	\$5,224.93	1 Item

APPENDIX A
5160-1-06.1
PASSPORT WAIVER RATES

Home Medical Equipment and Supplies: Non-Ambulatory-Third One	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Hygiene & Disposables	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Hygiene & Disposables: Second One	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Hygiene & Disposables: Third One	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Equipment Repair	\$5,224.93	1 Item
Home Medical Equipment and Supplies: Nutrition Supplement & Supplies	\$5,224.93	1 Item
Emergency Response System	\$31.78	1 Month Rental
Emergency Response System	\$31.35	Installation
Emergency Response System	\$101.46	Alternative ERS Device
Minor Home Modification	\$7,837.40	1 Completed Work Order
Independent Living Assistance: In-Person Activities	\$5.22	15 minutes (1/4 hour)
Independent Living Assistance: Travel Attendant	\$5.22	15 minutes (1/4 hour)
Independent Living Assistance: Telephone Assistance	\$5.22	1 Completed Call
Transportation	\$1,306.24	1 Round Trip
Transportation	\$653.11	1 One-Way Trip
Community Transition Service	\$1,477.50	1 Completed Job Order or Deposit Made
Non-Medical Transportation	\$1,306.24	1 Round Trip
Non-Medical Transportation	\$653.11	1 One-Way Trip
Enhanced Community Living Service	\$5.06	15 minute (1/4 hour)
Alternative Meals Service	\$31.35	1 Meal
Pest Control	\$783.74	1 Job
Choices Home Care Attendant Service	\$6.25	15 minutes (1/4 hour)
Waiver Nursing Service	See rate in rule 5160-46-06	See billing unit in rule 5160-46-06

APPENDIX A
5160-1-06.1
PASSPORT WAIVER RATES

Out-of-Home Respite Service	See rate in rule 5160-46-06	See billing unit in rule 5160-46-06
Home Care Attendant Service	See rate in rule 5160-46-06	See billing unit in rule 5160-46-06
Shared Living Service: Level One	\$77.20	1 day
Shared Living Service: Level Two	\$113.19	1 day

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5160-31-05

PASSPORT HCBS waiver program covered services.

- (A) The purpose of this rule is to establish the services covered by the pre-admission screening system providing options and resources today (PASSPORT) home and community based services (HCBS) wavier program.
- (B) The PASSPORT HCBS waiver program benefit package is limited to the following services:
 - (1) Adult day services as set forth in rule 173-39-02.1 of the Administrative Code;
 - (2) Alternative meal services as set forth in rule 173-39-02.2 of the Administrative Code;
 - (3) Choices home care attendant services as set forth in rule 173-39-02.4 of the Administrative Code;
 - (4) Chore services as set forth in rule 173-39-02.5 of the Administrative Code;
 - (5) Community transition services as set forth in rule 173-39-02.17 of the Administrative Code;
 - (6) Emergency response system services as set forth in rule 173-39-02.6 of the Administrative Code;
 - (7) Enhanced community living services as set forth in rule 173-39-02.20 of the Administrative Code;
 - (8) Homemaker services as set forth in rule 173-39-02.8 of the Administrative Code;
 - (9) Home care attendant services as set forth in rule 173-39-02.24 of the Administrative Code;
 - (10) Home delivered meal services as set forth in rule 173-39-02.14 of the Administrative Code;
 - (11) Home medical equipment and supplies services as set forth in rule 173-39-02.7 of the Administrative Code;

- (12) Independent living assistance services as set forth in rule 173-39-02.15 of the Administrative Code;
 - (13) Minor home modification, maintenance and repair services as set forth in rule 173-39-02.9 of the Administrative Code;
 - (14) Non-medical transportation services as set forth in rule 173-39-02.18 of the Administrative Code;
 - (15) Nutrition consultation services as set forth in rule 173-39-02.10 of the Administrative Code;
 - (16) Out-of-home respite services as set forth in rule 173-39-02.23 of the Administrative Code;
 - (17) Personal care services as set forth in rule 173-39-02.11 of the Administrative Code;
 - (18) Pest control services as set forth in rule 173-39-02.3 of the Administrative Code;
 - (19) Shared living services as set forth in rule 173-39-02.25 of the Administrative Code;
 - ~~(19)~~(20) Social work counseling services as set forth in rule 173-39-02.12 of the Administrative Code;
 - ~~(20)~~(21) Transportation services as set forth in rule 173-39-02.13 of the Administrative Code; and
 - ~~(21)~~(22) Waiver nursing services as set forth in rule 173-39-02.22 of the Administrative Code.
- (C) Services shall be delivered by providers in a manner that is consistent with the individual's person-centered service plan as documented in the PASSPORT information management system (PIMS).
- (D) If an individual enrolled on PASSPORT is also a participant in the helping ohioans move, expanding (HOME) choice demonstration program in accordance with Chapter 5160-51 of the Administrative Code, the individual may, at the individual's discretion, use the HOME choice community transitions service in lieu of, but not

in addition to, the community transition service available through the PASSPORT waiver program.

(E) If an individual receives enhanced community living services, per the federally approved waiver, the ~~consumer~~individual may not receive either personal care or homemaker services available through the PASSPORT waiver program.

(F) If an individual receives shared living services, per the federally approved waiver, the individual may not receive more than four hours of personal care service or more than 1/2 day of adult day services on the same day as receiving the shared living service.

~~(F)~~(G) In accordance with the federally approved PASSPORT waiver the services identified in this paragraph are subject to employer and/or budget authority if elected by the individual. Services are to be furnished in accordance with the requirements in paragraph (B) of this rule:

(1) The following services are subject to employer authority, which includes but is not limited to, the ability to hire, fire, and train employees:

(a) Choices home care attendant service; and

(b) Personal care services.

(2) The following services are subject to budget authority, which includes but is not limited to, the ability to negotiate reimbursement rates paid to providers furnishing services:

(a) Alternative meals service;

(b) Choices home care attendant service

(c) Home medical equipment and supplies service;

(d) Minor home modification, maintenance and repair services; and

(e) Pest control service

~~(G)~~(H) An individual who elects to self-direct any of the services provided in paragraph (F) of this rule shall be assessed by their case manager to determine the individual's ability to self-direct their services as set forth in rule 173-42-06 of the

Administrative Code.

- (1) If an individual demonstrates the ability to self-direct their care the case manager may initiate the orientation process to familiarize the individual with the self-direction of services including the role of the financial management service (FMS).
 - (2) If the individual is unable to demonstrate the ability to self-direct his or her care and to assume the responsibilities associated with the self-direction authorities in paragraph (F) of this rule, the individual may choose an authorized representative to act on his or her behalf.
 - (3) If no authorized representative is available, the case manager will assist the individual with obtaining services through ODA-certified long-term care agency providers.
- ~~(H)~~(I) If an individual who is seeking to self-direct his or her care chooses an authorized representative to act on his or her behalf in accordance with paragraph (G)(2) of this rule, the authorized representative shall not simultaneously serve as the consumer's authorized representative and the consumer's provider.

Effective:

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Certification

Date

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Statutory Authority: 5166.02
Rule Amplifies: 173.52
Prior Effective Dates: 7/16/84, 12/22/86 (Emer.), 3/23/87, 7/1/90, 1/14/96,
9/1/98, 7/1/06, 7/1/08, 6/28/09, 3/17/11, 3/1/14,
7/1/2014

*** DRAFT - NOT YET FILED ***

5160-31-07

PASSPORT HCBS waiver program rate setting.

The purpose of this rule is to describe the methods used to determine provider rates for the pre-admission screening system providing options and resources today (PASSPORT) home and community based services (HCBS) medicaid waiver program.

- (A) Rates determined under this rule shall not exceed the maximum reimbursement rate for PASSPORT services in appendix A to rule 5160-1-06.1 of the Administrative Code. Payment for PASSPORT HCBS waiver services constitutes payment in full and may not be construed as a partial payment when the payment amount is less than the provider's usual and customary charge. The provider may not bill the individual for any difference between the medicaid payment and the provider's charge or request the individual to share in the cost through a co-payment or other similar charge.
- (B) PASSPORT reimbursement rates are established for the services in rule 5160-31-05 of the Administrative Code under the following categories:
 - (1) Per job bid rate;
 - (2) Per item rate; and
 - (3) Unit rate.
- (C) Rates set within the categories in paragraph (B) of this rule may be:
 - (1) Participant-directed, in which the individual or their designated authorized representative, who is acting on the individual's behalf, may negotiate the reimbursement rate for services furnished by providers as specified in paragraphs (D)(3), (E)(3), (G)(4), and (H) of this rule.
 - (2) Statewide, in which the state establishes a rate that is used on a statewide basis to reimburse for services specified in paragraph (F) of this rule.
 - (3) Regional, in which the state establishes a regional reimbursement rate for services specified in paragraph (G) of this rule. The regions in which applicable rates are calculated shall be designated by ODA.
 - (a) The regional rate for each service shall be the weighted average rate paid in the region using cost and unit data either from the most recently

completed state fiscal year or the most recent twelve calendar months for which complete data is available, whichever is later.

(b) ODA or its designee shall enter into a contract with providers in each region. The contract shall do all of the following:

- (i) Specify the time period for which the rates shall be in effect;
- (ii) Specify the timelines for contracting;
- (iii) Define the region/subregions for which the rates will be established;
- (iv) Base rates on the units of service as set forth in appendix A to rule 5160-1-06.1 of the Administrative Code;
- (v) Reflect the rate the provider is willing to accept; and
- (vi) Adjust the regional rate up to the nearest number that is divisible by four, out to two decimal places.

(c) Regional contract rates shall be established as follows:

- (i) No provider shall have a contract rate that exceeds the rate for that service as established in rule 5160-1-06.1 of the Administrative Code.
- (ii) If the state recalculates regional rates for the services in paragraph (G) of this rule, certified providers may either accept the new regional rate or continue to be reimbursed at the rate paid for services prior to the calculation of the regional rate.
- (iii) Providers who are certified after the regional rate is established shall have a contract rate less than or equal to the regional rate.

(4) Group rates, in which a provider that is furnishing certain services to more than one individual enrolled on PASSPORT is reimbursed at a rate that is seventy-five per cent of the reimbursement rate the provider would be paid for furnishing PASSPORT services as specified in paragraphs (D)(2), (F)(2), (G)(2), and (G)(3) of this rule.

(D) For the services listed in this paragraph, a per job bid rate shall be negotiated between the provider and the individual's case manager.

(1) A per job bid rate shall be used for the following services:

- (a) Chore services;
- (b) Community transition services;
- (c) Minor home modification services;
- (d) Non-medical transportation services;
- (e) Pest control services; and
- (f) Transportation services.

(2) Transportation and non-medical transportation services rendered simultaneously by the same provider to more than one individual enrolled in PASSPORT residing in the same household and traveling in the same vehicle to the same destination shall be reimbursed using a group rate that is equal to seventy-five per cent of the provider's per job bid rate. This applies to any combination of transportation and/or non-medical transportation services.

(3) Minor home modification and pest control services may be participant directed services in which the individual enrolled on PASSPORT or their authorized representative, acting on the individual's behalf, may negotiate reimbursement rates.

- (a) The negotiated rate shall be reviewed by the individual's case manager and reflected on the individual's person-centered service plan prior to service delivery.
- (b) Should the individual choose not to negotiate a rate of reimbursement the service shall be reimbursed at a rate proposed by the provider and accepted by the ~~consumer~~individual and the ~~consumer's~~individual's case manager. The accepted rate shall be reflected on the ~~consumer's~~individual's person-centered service plan.

(E) A per item rate shall be determined for home medical equipment and supplies service.

- (1) The cost of the item shall not exceed the medicaid state plan rate.
 - (2) The cost of an item that does not have an established medicaid rate shall be reimbursed at a per item bid rate submitted and agreed to in writing by the PASSPORT administrative agency (PAA) prior to delivery of the item.
 - (3) Home medical equipment and supplies services may be participant directed in which the individual enrolled on PASSPORT or the authorized representative, acting on the individual's behalf, may negotiate reimbursement rates.
 - (a) The negotiated rate shall be reviewed by the individual's case manager and reflected on the individual's person-centered service plan prior to service delivery.
 - (b) Should the individual choose not to negotiate a rate of reimbursement the service shall be reimbursed at a rate proposed by the provider and accepted by the consumer and the ~~consumer's individual's~~ case manager. The accepted rate shall be reflected on the ~~consumer's individual's~~ person-centered service plan.
- (F) The Ohio department of aging (ODA) shall establish unit rates for the services listed in this paragraph. No service shall have both a regional and statewide rate set pursuant to this rule.
- (1) Statewide rates shall be established and used for the following services:
 - (a) Adult day services;
 - (b) Emergency response system services;
 - (c) Enhanced community living services;
 - (d) Home care attendant services;
 - (e) Out-of-home respite services;
 - (f) Personal care services ~~provided by ODA-certified long-term care consumer-directed personal care provider; and~~

(g) Shared Living services; and

~~(g)(h)~~ Waiver nursing services.

- (2) The services in paragraphs (F)(1)(d), (F)(1)(f), and (F)(1)(~~gh~~) of this rule, when rendered during the same visit to more than one but less than four PASSPORT consumers in the same household, as identified in the consumers' service plans, shall be reimbursed using a group rate equal to one hundred per cent of the provider's per unit rate set in accordance with paragraph (C) of this rule for one PASSPORT consumer. The provider shall be reimbursed seventy-five per cent of the provider's per unit rate for each subsequent PASSPORT consumer in the household receiving services during the visit.
- (G) ODA shall establish regional unit rates for the services listed in this paragraph pursuant to the methodology in paragraph (C)(3) of this rule. No service, except personal care services provided under paragraph (F)(1)(f) of this rule, shall have both a regional and statewide rate set pursuant to this rule.
- (1) Regional unit rates shall be set for the following services:
- (a) Adult day services transportation;
 - (b) Home delivered meals services;
 - (c) Homemaker services;
 - (d) Social work counseling services;
 - (e) Nutritional consultation services; and
 - (f) ~~Personal care services; and~~
 - (g) Independent living assistance services.
- (2) Adult day service transportation services rendered simultaneously by the same provider to more than one ~~consumer~~ individual residing in the same household and traveling in the same vehicle to the same destination shall be reimbursed using a group rate equal to seventy-five per cent of the provider's regional unit rate.

- (3) Personal care services, except personal care services provided under paragraph (F) of this rule, that are rendered during the same visit by the same provider to more than one but less than four PASSPORT ~~consumers~~individuals in the same household, as identified in the ~~consumers'~~ individuals' person-centered service plans, shall be reimbursed using a group rate equal to one hundred per cent of the provider's regional per unit rate set in accordance with paragraph (C) of this rule for one PASSPORT consumer. The provider shall be reimbursed seventy-five per cent of their regional per unit rate for each subsequent PASSPORT ~~consumer~~individual in the household receiving services during the visit.
- (4) Homemaker services may be participant directed services in which the individual enrolled on PASSPORT or their authorized representative, acting on the individual's behalf, may negotiate reimbursement rates.
 - (a) The negotiated rate shall be reviewed by the individual's case manager and reflected on the individual's person-centered service plan prior to service delivery.
 - (b) Should the individual choose not to negotiate a rate of reimbursement the service shall be reimbursed in accordance with paragraph (G) of this rule. The accepted rate shall be reflected on the ~~consumer's~~individual's person-centered service plan.
- (H) The services in this paragraph are participant directed and the individual may negotiate unit rates with providers.
 - (1) The participant directed services include:
 - (a) Alternative meals service; and
 - (b) Choices home care attendant services.
 - (2) The ~~consumer~~individual shall have in effect, before choices home care attendant services are delivered, a signed agreement with each ODA-certified consumer-directed individual provider delivering services to the ~~consumer~~individual. The agreement shall:
 - (a) Include the rate of reimbursement negotiated with the provider;
 - (b) Specify the time period the rates shall be in effect;

- (c) Base rates on the units of service as set forth in Chapter 173-39 of the Administrative Code;
 - (d) Be signed by the individual receiving the choices HCBS waiver home care attendant service ~~program participant~~ and the HCBS provider.
- (3) The rates negotiated by the individual ~~choices HCBS waiver consumer~~ with providers of services in this paragraph shall not exceed the maximum allowed per unit of service as specified in appendix A to rule 5160-1-06.1 of the Administrative Code. The negotiated rate shall be reviewed by the ~~consumer's~~individual's case manager and reflected on the ~~consumer's~~individual's person-centered service plan prior to service delivery.
- (4) Should the ~~consumer~~individual choose not to negotiate a rate of reimbursement for any of the services in this paragraph, the service shall be reimbursed at a rate proposed by the provider and accepted by the ~~consumer~~individual and the ~~consumer's~~individual's case manager. The accepted rate shall be reflected on the ~~consumer's~~individual's person-centered service plan.
- (I) The Ohio department of medicaid, or its designee, shall evaluate unit rates within two years of the effective date of this rule and every two years thereafter.

Effective:

Five Year Review (FYR) Dates: 06/30/2019

Certification

Date

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