

5123:2-9-30

**Home and community-based services waivers - homemaker/personal care under the individual options and level one waivers.**

(A) Purpose

This rule defines homemaker/personal care and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Adult day support" has the same meaning as in rule 5123:2-9-17 of the Administrative Code.
- (2) "Agency provider" means an entity that employs persons for the purpose of providing services for which the entity must be certified under rules adopted by the department.
- (3) "Community respite" has the same meaning as in rule 5123:2-9-22 of the Administrative Code.
- (4) "County board" means a county board of developmental disabilities.
- (5) "Department" means the Ohio department of developmental disabilities.
- (6) "Developmental center" means a state-operated intermediate care facility for individuals with intellectual disabilities.
- (7) "Direct services position" has the same meaning as in section 5123.081 of the Revised Code.
- (8) "Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty-two minutes of service delivery time.
- (9) "Funding range" means one of the dollar ranges contained in appendix A to rule 5123:2-9-06 of the Administrative Code to which individuals enrolled in the individual options waiver have been assigned for the purpose of funding services. The funding range applicable to an individual is determined by the score derived from the Ohio developmental disabilities profile that has been completed by a county board employee qualified to administer the tool.
- (10) "Group size" means the number of individuals who are sharing services, regardless of the funding source for those services.
- (11) "Homemaker/personal care" means the coordinated provision of a variety of services, supports, and supervision necessary for the health and welfare of an

individual which enables the individual to live in the community. These are tasks directed at increasing the independence of the individual within his or her home or community. The service includes tasks directed at the individual's immediate environment that are necessitated by his or her physical or mental (including emotional and/or behavioral) condition and are of a supportive or maintenance type. Homemaker/personal care helps the individual meet daily living needs, and without the service, alone or in combination with other waiver services, the individual would require institutionalization.

- (a) The homemaker/personal care provider performs tasks such as assisting the individual with activities of daily living, personal hygiene, dressing, feeding, transfer, ambulatory needs, or skills development. Skills development is intervention that focuses on both preventing the loss of skills and enhancing skills that are already present that will lead to greater independence within the residence or the community. The provider may also perform homemaking tasks for the individual. These tasks may include cooking, cleaning, laundry, money management, and shopping, among others. Homemaking and personal tasks are combined into a single service titled homemaker/personal care because, in actual practice, a provider performs both services and does so as part of the natural flow of the day.
- (b) Examples of supports that may be provided as a component of homemaker/personal care include:
- (i) Basic personal care and grooming, including bathing, care of the hair, and assistance with clothing;
  - (ii) Assistance with bladder and/or bowel requirements or problems, including helping the individual to and from the bathroom or assisting the individual with bedpan routines;
  - (iii) Assisting the individual with self-medication or provision of medication administration for prescribed medications and assisting the individual with, or performing, health care activities;
  - (iv) Performing household services essential to the individual's health and comfort in the home (e.g., necessary changing of bed linens or rearranging of furniture to enable the individual to move about more easily in his or her home);
  - (v) Assessing, monitoring, and supervising the individual to ensure the individual's safety, health, and welfare;
  - (vi) Light cleaning tasks in areas of the home used by the individual;

- (vii) Preparation of a shopping list appropriate to the individual's dietary needs and financial circumstances, performance of grocery shopping activities as necessary, and preparation of meals;
  - (viii) Personal laundry; and
  - (ix) Incidental neighborhood errands as necessary, including accompanying the individual to medical and other appropriate appointments and accompanying individual for walks outside the home.
- (12) "Independent provider" means a self-employed person who provides services for which he or she must be certified under rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (13) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (14) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (15) "Informal respite" has the same meaning as in rule 5123:2-9-21 of the Administrative Code.
- (16) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- (17) "Non-medical transportation" has the same meaning as in rule 5123:2-9-18 of the Administrative Code.
- (18) "Ohio developmental disabilities profile" means the standardized instrument utilized by the department to assess the relative needs and circumstances of an individual enrolled in the individual options waiver compared to others. The individual's responses are scored and the individual is linked to a funding range, which enables similarly situated individuals to access comparable waiver services paid in accordance with rules adopted by the department.
- (19) "On-site/on-call" means a rate paid when no need for supervision or supports is anticipated and a provider must be on-site and available to provide homemaker/personal care but is not required to remain awake.
- (20) "Residential respite" has the same meaning as in rule 5123:2-9-34 of the

Administrative Code.

- (21) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- (22) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that shall include the items delineated in paragraph (E) of this rule to validate payment for medicaid services.
- (23) "Supported employment-community" has the same meaning as in rule 5123:2-9-15 of the Administrative Code.
- (24) "Supported employment-enclave" has the same meaning as in rule 5123:2-9-16 of the Administrative Code.
- (25) "Team" has the same meaning as in rule 5123:2-1-11 of the Administrative Code.
- (26) "Transportation" has the same meaning as in rule 5123:2-9-24 of the Administrative Code.
- (27) "Vocational habilitation" has the same meaning as in rule 5123:2-9-14 of the Administrative Code.
- (28) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date.

(C) Provider qualifications

- (1) Homemaker/personal care shall be provided by an independent provider or an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.
- (2) Homemaker/personal care shall not be provided by a county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards except that the Lorain county board may, for up to ninety calendar days immediately following the effective date of this rule, continue to provide or subcontract to provide homemaker/personal care for no more than the number of individuals enrolled in the individual options waiver it served on July 1, 2005.

- (3) An applicant seeking approval to provide homemaker/personal care shall complete and submit an application through the department's website (<http://dodd.ohio.gov/providers/becomeaprovider/pages/default.aspx>).
- (4) Providers licensed under section 5123.19 of the Revised Code seeking to provide homemaker/personal care shall:
- (a) Meet all of the requirements set forth in and maintain a license issued under section 5123.19 of the Revised Code.
  - (b) Maintain a current medicaid provider agreement with the Ohio department of medicaid.
  - (c) Provide to the department written assurance to arrange for substitute coverage, if necessary, only from a provider certified or approved by the department and as identified in the individual service plan; notify the individual or legally responsible person in the event that substitute coverage is necessary; and notify the person identified in the individual service plan when substitute coverage is not available to allow such person to make other arrangements.
- (5) Each independent provider and each employee, contractor, and employee of a contractor of an agency provider working in a direct services position shall annually complete at least eight hours of training, in accordance with standards established by the department.
- (a) The training shall enhance the skills and competencies of the independent provider or employee/contractor of the agency provider relevant to his or her job responsibilities and shall include, but is not limited to:
    - (i) The role and responsibilities of the independent provider or employee/contractor with regard to services including person-centered planning, community integration, self-determination, and self-advocacy.
    - (ii) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code.
    - (iii) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department since the previous year's training.
    - (iv) The requirements relative to the independent provider's or employee's/contractor's role in providing behavioral support to the individuals he or she serves.

(b) The training may be structured or unstructured and may include, but is not limited to, lectures, seminars, formal coursework, workshops, conferences, demonstrations, visitations or observations of other facilities/services/programs, distance and other means of electronic learning, video and audio-visual training, and staff meetings.

(c) The provider shall maintain a written record, which may include an electronic record, of training. This information shall be presented upon request by the Ohio department of medicaid, the department, or the county board. Documentation shall include the name of the person receiving the training, date of training, training topic, duration of training, instructor's name if applicable, and a brief description of the training.

(6) Failure of a certified provider to comply with this rule and rule 5123:2-2-01 of the Administrative Code may result in denial, suspension, or revocation of the provider's certification.

(7) Failure of a licensed provider to comply with this rule and Chapter 5123:2-3 of the Administrative Code may result in denial, suspension, or revocation of the provider's license.

#### (D) Requirements for service delivery

(1) Homemaker/personal care shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code. Providers shall participate in individual service plan development meetings when a request for their participation is made by the individual.

(2) Homemaker/personal care shall not be provided to an individual at the same time as residential respite.

(3) Homemaker/personal care services may extend to those times when the individual is not physically present and the provider is performing homemaker activities on behalf of the individual.

(4) Homemaker/personal care services involving direct contact with an individual receiving the services shall not be provided at the same time the individual is receiving adult day support, supported employment-community, supported employment-enclave, or vocational habilitation.

(5) A provider shall not bill for homemaker/personal care provided by the driver during the same time non-medical transportation is provided.

#### (E) Documentation of services

Service documentation for homemaker/personal care shall include each of the following to validate payment for medicaid services:

- (1) Type of service.
- (2) Date of service.
- (3) Place of service.
- (4) Name of individual receiving service.
- (5) Medicaid identification number of individual receiving service.
- (6) Name of provider.
- (7) Provider identifier/contract number.
- (8) Written or electronic signature of the person delivering the service or initials of the person delivering the service if a signature and corresponding initials are on file with the provider.
- (9) Group size in which the service was provided.
- (10) Description and details of the services delivered that directly relate to the services specified in the approved individual service plan as the services to be provided.
- (11) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.
- (12) Begin and end times of the delivered service.

(F) Payment standards

- (1) The billing units, service codes, and payment rates for homemaker/personal care are contained in appendix A to this rule. Payment rates include an adjustment based on the county cost-of-doing-business category. The cost-of-doing-business category for an individual is the category assigned to the county in which the service is actually provided for the preponderance of time. The cost-of-doing-business categories are contained in appendix B to this rule.
- (2) Payment rates for homemaker/personal care are established separately for services provided by independent providers and services provided by agency providers.

- (3) Payment rates for homemaker/personal care shall be adjusted to reflect the number of individuals being served and the number of people providing services.
- (a) When two individuals are being served by one person, the base rate shall be one hundred seven per cent of the base rate for one-to-one service. When three individuals are being served by one person, the base rate shall be one hundred seventeen per cent of the base rate for one-to-one service. When four or more individuals are being served by one person, the base rate shall be one hundred thirty per cent of the base rate for one-to-one service.
- (b) The base rate is divided by the number of individuals being served to determine the rate apportioned to each individual.
- (c) When multiple staff members of an agency provider simultaneously provide services to more than one individual, the payment rate is adjusted to reflect the average staff-to-individual ratio at which services are provided. The calculation of rates apportioned to each individual when multiple staff members simultaneously provide services to more than one individual are contained in the "Application of Appendix A to rule 5123:2-9-30" as in effect on the effective date of this rule, which is available at the department's website (<http://dodd.ohio.gov/ruleslaws/pages/rulesineffect.aspx>).
- (4) Payment rates for routine homemaker/personal care may be modified to reflect the needs of individuals requiring behavioral support and/or medical assistance in accordance with paragraphs (F)(4)(a) and (F)(4)(b) of this rule. Upon determination by the county board that the individual meets the criteria, the county board shall recommend and implement rate modifications for behavioral support and/or medical assistance. Rate modifications are subject to review by the department. The duration of approval for behavioral support and/or medical assistance rate modifications shall be limited to the individual's waiver eligibility span, may be determined needed or no longer needed within that waiver eligibility span, and may be renewed annually. A modification to the homemaker/personal care rate shall be applied for each individual in a congregate setting meeting the criteria and shall be included in the payment rates of only those individuals meeting the criteria.
- (a) The behavioral support rate modification is applicable to routine homemaker/personal care only and shall be paid during all times when routine homemaker/personal care is provided to an individual who qualifies for the modification. The amount of the behavioral support rate modification for each fifteen-minute billing unit of service is contained in appendix A to this rule.

- (i) The purpose of the behavioral support rate modification is to provide funding for the implementation of behavioral support strategies by staff who have the level of training necessary to implement the strategies.
- (ii) In order for an individual to receive the behavioral support rate modification, the following conditions shall be met:

  - (a) The individual has been assessed within the last twelve months to present a danger to self or others or have the potential to present a danger to self or others; and
  - (b) A behavioral support strategy that is a component of the individual service plan has been developed in accordance with the requirements in rules established by the department; and
  - (c) The individual either:

    - (i) Has a response of "yes" to at least four items in question thirty-two of the behavioral domain of the Ohio developmental disabilities profile; or
    - (ii) Requires a structured environment that, if removed, will result in the individual's engagement in behavior destructive to self or others.
- (iii) When determined through the individual service plan development process that the conditions specified in paragraph (F)(4)(a)(ii) of this rule have been met, the county board shall apply the behavioral support rate modification for routine homemaker/personal care. The department retains the right to review and validate the qualifications of any provider of ongoing behavioral support services.
- (b) The medical assistance rate modification is applicable to routine homemaker/personal care only and shall be paid during all times when routine homemaker/personal care is provided to an individual who qualifies for the modification. The amount of the medical assistance rate modification for each fifteen-minute billing unit of service is contained in appendix A to this rule. The county board shall apply the medical assistance rate modification when the following criteria have been met:

  - (i) An individual requires routine feeding and/or the administration of prescribed medications through gastrostomy and/or jejunostomy

tubes, and/or requires the administration of routine doses of insulin through subcutaneous injections and insulin pumps; or

(ii) An individual requires oxygen administration that a licensed nurse agrees to delegate in accordance with rules in Chapter 4723-13 of the Administrative Code; or

(iii) An individual requires a nursing procedure or nursing task that a licensed nurse agrees to delegate in accordance with rules in Chapter 4723-13 of the Administrative Code, which is provided in accordance with section 5123.42 of the Revised Code, and when such procedure or nursing task is not the administration of oral prescribed medication or topical prescribed medication or a health-related activity as defined in rule 5123:2-6-01 of the Administrative Code.

(5) Payment rates for routine homemaker/personal care may be modified to reflect the needs of individuals enrolled in the individual options waiver who formerly resided at developmental centers when the following conditions are met:

(a) The individual was a resident of a developmental center immediately prior to enrollment in the individual options waiver;

(b) Homemaker/personal care is identified in the individual service plan as a service to be delivered and the individual begins receiving the service on or after July 1, 2011; and

(c) The director of the department determines that the rate modification is warranted due to time-limited cost increases experienced when individuals move from institutional settings to community-based settings.

(6) Payment rates for routine homemaker/personal care may be modified to reflect the needs of individuals enrolled in the individual options waiver who formerly resided at intermediate care facilities for individuals with intellectual disabilities when the following conditions are met:

(a) The individual was a resident of an intermediate care facility for individuals with intellectual disabilities immediately prior to enrollment in the individual options waiver;

(b) As a result of the individual enrolling in the individual options waiver, the intermediate care facility for individuals with developmental disabilities has reduced its medicaid-certified capacity;

(c) Homemaker/personal care is identified in the individual service plan as a

service to be delivered and the individual begins receiving the service on or after April 1, 2013; and

(d) The director of the department determines that the rate modification is warranted due to time-limited cost increases experienced when individuals move from institutional settings to community-based settings.

(7) The amount of the payment rate modifications set forth in paragraphs (F)(5) and (F)(6) of this rule shall be limited to fifty-two cents for each fifteen-minute billing unit of routine homemaker/personal care provided to the individual during the first year of the individual's enrollment in the individual options waiver.

(8) The team shall assess and document in the individual service plan when on-site/on-call may be appropriate.

(a) In making the assessment, the team shall consider:

(i) Medical or psychiatric condition which requires supervision or supports throughout the night;

(ii) Behavioral needs which require supervision or supports throughout the night;

(iii) Sensory or motor function limitations during sleep hours which require supervision or supports throughout the night;

(iv) Special dietary needs, restrictions, or interventions which require supervision or supports throughout the night;

(v) Other safety considerations which require supervision or supports throughout the night; and

(vi) Emergency action needed to keep the individual safe.

(b) A provider shall be paid at the on-site/on-call rate for homemaker/personal care contained in appendix A to this rule when:

(i) Based upon assessed and documented need, the individual service plan indicates the days of the week and the beginning and ending times each day when it is anticipated that an individual will require on-site/on-call; and

(ii) The individual is asleep and requires staff to be available to provide homemaker/personal care; and

- (iii) The needs of the individual require staff to be on-site but not to remain awake; and
- (iv) On-site/on-call does not exceed eight hours for the individual in any twenty-four-hour period.
- (c) A provider shall be paid the routine homemaker/personal care rate instead of the on-site/on-call rate when an individual receives supervision or supports during the night. In these instances, the provider shall document the date and begin and end times during which supervision or supports were provided to the individual.
- (d) The payment rate modifications set forth in paragraphs (F)(4), (F)(5), and (F)(6) of this rule are not applicable to the on-site/on-call payment rates for homemaker/personal care.
- (9) Payment for homemaker/personal care shall not include room and board, items of comfort and convenience, or costs for the maintenance, upkeep, and improvement of the home.
- (10) Under the level one waiver, payment for community respite, homemaker/personal care, informal respite, residential respite, and transportation, alone or in combination, shall not exceed five thousand three hundred twenty-five dollars per waiver eligibility span.

Replaces: 5123:2-9-30  
Effective: 01/01/2016  
Five Year Review (FYR) Dates: 01/01/2021

CERTIFIED ELECTRONICALLY

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Certification

12/21/2015

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Date

Promulgated Under: 119.03  
Statutory Authority: 5123.04, 5123.045, 5123.049, 5123.16, 5166.21  
Rule Amplifies: 5123.04, 5123.045, 5123.049, 5123.16, 5166.21  
Prior Effective Dates: 07/24/1995, 04/28/2003, 07/01/2005, 04/20/2006,  
07/01/2006, 07/01/2007, 12/12/2007 (Emer.),  
03/20/2008, 07/01/2010, 04/19/2012, 09/01/2013,  
01/01/2014, 07/01/2014