

## TO BE RESCINDED

5123:2-9-44

**Home and community-based services waivers - integrated employment under the self-empowered life funding waiver.**

## (A) Purpose

The purpose of this rule is to define integrated employment and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service

## (B) Definitions

- (1) "Agency provider" means an entity that employs persons for the purpose of providing services.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Independent provider" means a person who provides services and does not employ, either directly or through contract, anyone else to provide the services.
- (5) "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. An individual who is his or her own guardian may designate another person to assist the individual with development of the individual service plan and budget, selection of residence and providers, and negotiation of payment rates for services; the individual's designee shall not be employed by a county board or a provider, or a contractor of either.
- (6) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (7) "Integrated employment" means the initial and ongoing supports an individual needs to acquire and maintain a job in the general workforce at or above the state's minimum wage. The intended outcome of this service is sustained paid employment in an integrated setting in the general workforce and a job that meets the individual's personal and career goals. Integrated employment may be provided by a coworker or other worksite personnel as long as the services that are furnished are not part of that person's regular duties for which he or

she is compensated by the employer and the person meets the qualifications established in this rule for independent providers. Integrated employment does not include sheltered work or other types of vocational services furnished in specialized facilities. Integrated employment is individual-specific and shall not be provided to two or more individuals working in an enclave. Integrated employment is comprised of two distinct components:

- (a) Initial supports necessary for an individual to acquire a job in the general workforce, provided in advance of the individual securing a job in the general workforce, related to career planning, placement, and training including:
  - (i) Person-centered employment planning, job development, and job placement;
  - (ii) Training and systematic instruction;
  - (iii) Supports an individual needs to acquire an internship or apprenticeship of limited duration; and
  - (iv) Supports an individual needs to achieve self-employment through the operation of a business, but not including funding for start-up costs or ongoing business operation expenses.
- (b) Retention supports necessary for an individual to maintain a job in the general workforce including:
  - (i) Periodic contact with the individual to ensure the job match remains successful;
  - (ii) Ongoing assistance navigating the work environment (e.g., problem-solving issues with coworkers and/or supervisors, interpreting social cues, understanding office/organizational policies and practices);
  - (iii) Job coaching (i.e., one-on-one instruction that helps an individual adjust to the work environment and/or to learn specific job tasks); and
  - (iv) Advocacy coaching (e.g., assistance developing and practicing a script to request a reasonable accommodation).

- (8) "Mentor" means a person with experience providing direct services to persons with developmental disabilities who is available on a regular basis to provide guidance to new direct support staff regarding techniques and practices that enhance the effectiveness of the direct provision of integrated employment.
- (9) "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.
- (10) "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.
- (11) "Support broker" means a person who is responsible, on a continuing basis, for providing an individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services (particularly those associated with participant direction) in accordance with the individual service plan. The support broker assists the individual with the individual's responsibilities regarding participant direction, including understanding employer authority and budget authority, locating and selecting providers, negotiating payment rates, and keeping the focus of the services and support delivery on the individual and his or her desired outcomes. The support broker, working in conjunction with the service and support administrator, assists the individual with creating the individual service plan, developing the waiver budget, and doing day-to-day monitoring of the provision of services as specified in the individual service plan.

(C) Provider qualifications

- (1) Integrated employment 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 job and family services.
- (2) An applicant seeking approval to provide integrated employment shall complete and submit an application and adhere to the requirements of rule 5123:2-2-01 of the Administrative Code except that paragraphs (C)(3)(a), (C)(3)(b), (C)(3)(c), and (K) of that rule do not apply to an independent provider who is

the individual's coworker or otherwise employed at the worksite.

- (3) Integrated employment shall be provided by a person who is:
  - (a) An independent provider who is the individual's coworker or otherwise employed at the worksite as long as the services that are furnished are not part of that person's regular duties for which he or she is compensated by the employer;
  - (b) An independent provider, other than an independent provider who is the individual's coworker or otherwise employed at the worksite, who has at least one year of full-time, paid work experience or thirty hours of formal training related to supporting individuals to acquire and maintain jobs in the general workforce; or
  - (c) An employee or contractor of an agency provider.
- (4) An independent provider who is the individual's coworker or otherwise employed at the worksite shall annually complete training in:
  - (a) The provisions governing rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and
  - (b) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department since the previous year's training.
- (5) An independent provider, other than an independent provider who is the individual's coworker or otherwise employed at the worksite, shall annually complete at least eight hours of training that enhances his or her skills and competencies relevant to the services he or she provides which shall include, but is not limited to:
  - (a) The provisions governing rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code;
  - (b) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department since the previous year's training; and

- (c) Services that comprise integrated employment as it is defined in paragraph (B)(7) of this rule.
- (6) An agency provider shall ensure that each employee, contractor, and employee of a contractor who is engaged in direct provision of integrated employment successfully completes, within ninety days of employment or contract, either:
- (a) The "Ohio Alliance of Direct Support Professionals Professional Advancement Through Training and Education in Human Services (PATHS) Certificate of Initial Proficiency" program; or
  - (b) An orientation program of at least eight hours that addresses, but is not limited to:
    - (i) Organizational background of the agency provider, including:
      - (a) Mission, vision, values, principles, and goals;
      - (b) Organizational structure;
      - (c) Key policies, procedures, and work rules;
      - (d) Ethical and professional conduct and practice;
      - (e) Avoiding conflicts of interest; and
      - (f) Working effectively with individuals, families, and other team members.
    - (ii) Components of quality care for individuals served, including:
      - (a) Interpersonal relationships and trust;
      - (b) Cultural and personal sensitivity;
      - (c) Effective communication;
      - (d) Person-centered philosophy and practice;



- (b) Successfully completes on-the-job training specific to each individual he or she serves that includes, but is not limited to:
  - (i) Requirements set forth in the individual service plan including skill development goals, service/support activities, behavior support plan, planned interventions, and related documentation requirements;
  - (ii) The individual's preferences and strengths;
  - (iii) The individual's diagnoses and related needs;
  - (iv) The individual's care needs including nutrition, diet and mealtime support, restroom assistance, mobility needs, lifting, and general supervision/support requirements;
  - (v) Medication administration and delegated nursing, as applicable;
  - (vi) Teaching techniques and related documentation requirements; and
  - (vii) The employee's or contractor's role regarding management of the individual's funds and related documentation requirements.
- (c) Successfully completes at least eight hours of training specific to the provision of integrated employment that includes, but is not limited to:
  - (i) Skill building in vocational assessment, job development and placement, job training/coaching, ongoing job supports, worksite accessibility, developing natural supports, personal adjustment, work adjustment, and vocational planning; and
  - (ii) Self-determination which includes assisting the individual to develop self-advocacy skills, to exercise his or her civil rights, to exercise control and responsibility over the services he or she receives, and to acquire skills that enable him or her to become more independent, productive, and integrated within the community.
- (8) An agency provider shall develop and implement a written plan identifying training priorities for employees, contractors, and employees of a contractor

who are engaged in direct provision of integrated employment. The training priorities shall be consistent with the needs of individuals served, best practice, and the provider's mission, vision, and strategic plan. The written plan of training priorities shall describe the method (e.g., written test, skills demonstration, or documented observation by supervisor) that will be used to establish employees' and contractors' competency in areas of training. The written plan of training priorities shall be updated at least once every twelve months and shall identify who is responsible for arranging or providing the training and projected timelines for completion of the training.

- (9) An agency provider shall ensure that each employee, contractor, and employee of a contractor who is engaged in direct provision of integrated employment, commencing in the second year of employment or contract with the agency provider, annually completes at least eight hours of training, in accordance with the written plan of training priorities.
- (a) The training shall enhance the skills and competencies of the employee or contractor relevant to his or her job responsibilities and shall include, but is not limited to:
- (i) The provisions governing rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code;
  - (ii) The requirements of rule 5123:2-17-02 of the Administrative Code relating to incidents adversely affecting health and safety including a review of health and safety alerts issued by the department since the previous year's training;
  - (iii) The requirements relative to the employee's or contractor's role in providing behavior support to the individuals he or she serves; and
  - (iv) Best practices related to the provision of integrated employment.
- (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.
- (10) An agency provider shall ensure that a written record of training completed for each employee, contractor, and employee of a contractor who is engaged in

direct provision of integrated employment is maintained. The written record shall include a description of the training completed including a training syllabus and copies of training materials, the date of training, the duration of training, and the instructor's name, if applicable.

- (11) The individual may determine additional qualifications for a provider of integrated employment; additional qualifications determined by the individual shall be recorded in the individual service plan.
- (12) Failure 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.

(D) Requirements for service delivery

- (1) Integrated employment shall be provided pursuant to an individual service plan that conforms to the requirements of paragraph (K) of rule 5123:2-9-40 of the Administrative Code.
- (2) The service and support administrator shall ensure that documentation is maintained to demonstrate that the service provided as integrated employment to an individual enrolled in a self-empowered life funding waiver is not otherwise available as vocational rehabilitation services funded under section 110 of the Rehabilitation Act of 1973, 29 U.S.C. 730, or as special education or related services as those terms are defined in section 602 of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1401.
- (3) An independent provider or appropriate staff of an agency provider shall be knowledgeable in benefits, work incentives, and employer tax credits for individuals with developmental disabilities and ensure that individuals served receive this information.

(E) Documentation of services

Service documentation for integrated employment 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) Description and details of the services delivered that directly relate to the services specified and the goals established in the approved individual service plan, including:
  - (a) Results of formal and informal assessments (e.g., vocational evaluation, situational assessment, discovery process, and resource exploration);
  - (b) Progress notes relative to the individual's goals, job-seeking activities, and/or work performance (e.g., punctuality, attendance, hygiene, resume writing, and interview skills);
  - (c) Career exploration and employment planning activities and outcomes (e.g., job tryouts, interviews, volunteer opportunities, employers contacted, and job offers received);
  - (d) Job coaching/follow-along reports (e.g., goals addressed, skills developed, and natural supports identified or utilized); and
  - (e) Other outcomes (e.g., job placement, promotion, or change in duties).
- (10) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.
- (11) Times the delivered service started and stopped.

- (12) As applicable, the name of the individual's employer, the number of hours worked by the individual, and the hourly wage earned by the individual.

(F) Payment standards

- (1) The billing units, service codes, and payment rates for integrated employment are contained in the appendix to this rule.
- (2) Payment rates for integrated employment are established separately for the two distinct components of the service (i.e., initial supports and retention supports).
- (3) The payment rates for integrated employment provided by independent providers shall be negotiated by the individual and the provider subject to the minimum and maximum payment rates contained in the appendix to this rule and shall be identified in the individual service plan.
- (4) The payment rates for integrated employment provided by agency providers shall be the lesser of the provider's usual and customary charge or the statewide payment rates contained in the appendix to this rule.

(G) Data reporting and analysis

- (1) The department shall develop a system that shall be used by providers, other than an independent provider who is an individual's coworker or otherwise employed at the worksite, to submit on a monthly basis, data regarding the provision and outcomes of integrated employment, including but not limited to:
  - (a) Job placement rates;
  - (b) Duration of job placements;
  - (c) Hours worked by individuals; and
  - (d) Wages earned by individuals.
- (2) The department shall make available reports generated from the data submitted.
- (3) By January 1, 2014 and periodically thereafter, the department shall review the

collected data and develop any changes necessary to ensure that the service as implemented is advancing employment outcomes for individuals served and that provider payment is consistent with efficiency, economy, and quality of care.

Effective:

Five Year Review (FYR) Dates: 07/20/2016

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5111.871, 5111.873, 5123.04, 5123.045, 5123.049, 5123.16  
Rule Amplifies: 5111.871, 5111.873, 5123.04, 5123.045, 5123.049, 5123.16  
Prior Effective Dates: 08/23/2012