

5123-9-19

Home and community-based services waivers - general requirements for adult day support, career planning, group employment support, individual employment support, non-medical transportation, and vocational habilitation.

(A) Purpose

This rule establishes general requirements governing provision of and payment for adult day support, career planning, group employment support, individual employment support, non-medical transportation, and vocational habilitation provided to individuals enrolled in home and community-based services waivers administered by the department.

(B) Definitions

For the purposes of this rule, the following definitions ~~shall~~ apply:

- (1) "Acuity assessment instrument" means the standardized instrument utilized by the department to assess the relative non-residential services needs and circumstances of an adult individual compared to other adult individuals for purposes of receiving adult day support, career planning, group employment support, individual employment support, and vocational habilitation. Scores resulting from administration of the acuity assessment instrument have been grouped into ranges and subsequently linked with staffing expectations that result in four payment rates calibrated on group size that apply to adult day support, group employment support, and vocational habilitation.
- (2) "Administrative review" means the processes internal to the department and subject to oversight by the Ohio department of medicaid available to individuals who believe that their acuity assessment instrument scores, their placement in group assignment A, A-1, or B, and when applicable, the resulting budget limitation, prohibit their access to or continuation in the adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation services they have selected. ~~This~~ Administrative review is not applicable to individuals with placement in group assignment C or to non-medical transportation.
- (3) "Adult day services" means non-residential services including adult day support, career planning, group employment support, individual employment support, non-medical transportation, and vocational habilitation.
- (4) "Adult day support" has the same meaning as in rule 5123-9-17 of the Administrative Code.

- (5) "Agency provider" has the same meaning as in rule 5123-2-08 of the Administrative Code.
- (6) "Budget limitation" means the funding amount available to enable an individual enrolled in the individual options waiver to receive adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation within each waiver eligibility span. A separate budget limitation enables an individual enrolled in the individual options waiver to receive non-medical transportation within each waiver eligibility span. The budget limitation applicable to adult day support, career planning, group employment support, individual employment support, and vocational habilitation and the budget limitation applicable to non-medical transportation are above and beyond the funding range to which an individual enrolled in the individual options waiver has been assigned.
- (7) "Career planning" has the same meaning as in rule 5123-9-13 of the Administrative Code.
- (8) "County board" means a county board of developmental disabilities.
- (9) "Department" means the Ohio department of developmental disabilities.
- (10) "Funding range" means one of the dollar ranges contained in appendix A to rule 5123-9-06 of the Administrative Code to which individuals enrolled in the individual options waiver have been assigned for the purpose of funding services other than adult day support, career planning, group employment support, individual employment support, non-medical transportation, vocational habilitation, waiver nursing delegation, and waiver nursing services.
- (11) "Group employment support" has the same meaning as in rule 5123-9-16 of the Administrative Code.
- (12) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, ~~his or her~~ the person's guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (13) "Individual employment support" has the same meaning as in rule 5123-9-15 of the Administrative Code.
- (14) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

- (15) "Non-medical transportation" has the same meaning as in rule 5123-9-18 of the Administrative Code.
- (16) "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.
- (17) "Vocational habilitation" has the same meaning as in rule 5123-9-14 of the Administrative Code.
- (18) "Waiver eligibility span" means the twelve-month period following either an individual's initial waiver enrollment date or a subsequent eligibility re-determination date.
- (19) "Waiver nursing delegation" has the same meaning as in rule ~~5123:2-9-37~~ 5123-9-37 of the Administrative Code.
- (20) "Waiver nursing services" has the same meaning as in rule 5123-9-39 of the Administrative Code.

(C) Acuity assessments, group assignments, and budget limitations

- (1) The service and support administrator shall ensure that an acuity assessment instrument is completed for each individual for whom adult day support, career planning, group employment support, individual employment support, or vocational habilitation has been authorized through the individual service plan development process.
- (2) Information needed to complete the acuity assessment instrument shall be provided by the individual and informants who know the capabilities and needs of the individual outside of ~~his or her~~ the individual's residence, in the adult day services setting. Informants may include providers, guardians, advocates, and family members. The service and support administrator shall review and approve information contained on the acuity assessment instrument. The service and support administrator and/or a person designated by the service and support administrator shall submit information in electronic format to the department. The information will be automatically scored.
- (3) The score resulting from administration of the acuity assessment instrument will result in assignment of the individual by the service and support administrator to one of four groups. These group assignments will be applied to determine the rates paid when individuals receive adult day support, group employment support, and/or vocational habilitation.

- (a) An acuity assessment instrument score of eight to twenty-two results in assignment of the individual to group A or group A-1 based upon the staffing needs of the individual as identified in the individual service plan development process and reflected in the individual service plan.
 - (b) An acuity assessment instrument score of twenty-three to thirty-four results in assignment of the individual to group B.
 - (c) An acuity assessment instrument score of thirty-five to fifty-five results in assignment of the individual to group C.
- (4) Following assignment of ~~the~~ an individual enrolled in the individual options waiver to one of four groups, the service and support administrator shall determine the individual's budget limitation for adult day support, career planning, group employment support, individual employment support, and vocational habilitation. When the need for non-medical transportation has been identified through the individual service plan development process, the service and support administrator shall also determine the individual's budget limitation for non-medical transportation. Budget limitations are based on the cost-of-doing-business category that applies to the county in which the individual receives the preponderance of services. The cost-of-doing-business categories are contained in appendix A to this rule. The budget limitations are contained in appendix B to this rule. The budget limitation for non-medical transportation shall not be combined with the budget limitation for adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation to enable an individual to increase the availability of one or more of these services or for any other purpose.
- (5) The service and support administrator shall inform each individual of the acuity assessment instrument score, the resulting group assignment, and for an individual enrolled in the individual options waiver, the individual's budget limitations:
- (a) At the time the acuity assessment instrument is initially administered;
 - (b) At any time the acuity assessment instrument is re-administered and results in a score that places an individual in a different group assignment; and
 - (c) At any time the individual receives the preponderance of adult day services in a county with a different cost-of-doing-business category.
- (6) A budget limitation established for an individual enrolled in the individual options waiver shall change only when changes in assessment variable scores on the

acuity assessment instrument that justify assignment to a new group have occurred and/or the individual receives the preponderance of adult day services in a county with a different cost-of-doing-business category. Responses to any or all acuity assessment instrument variables may be revised at any time at the request of the individual or at the discretion of the service and support administrator, with the individual's consent.

- (7) The department shall periodically re-examine the scoring of the acuity assessment instrument and the linkage of the scores to group assignments.

(D) Individual service plan development process

- (1) An eligible individual may elect to receive one, some, or all of the adult day services. The services shall be provided pursuant to a person-centered individual service plan that conforms to the requirements of rules 5123-4-02 and 5123:2-2-05 of the Administrative Code.
- (2) Individual service plans shall indicate the group assignment for provision of adult day support, group employment support, and vocational habilitation in accordance with paragraph (C)(3) of this rule. When an individual who is enrolled in a waiver receives one or more of these services in a group that includes one or more individuals who are not enrolled in a waiver, the group assignment for the individuals who are not enrolled in a waiver shall be identified through the individual service plan development process. Agency providers are not required to use, but may use, the acuity assessment instrument to determine the group assignment for individuals who are not enrolled in a waiver.
- (3) The county board shall determine whether the annual cost for adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation can be met by or exceeds the assigned budget limitation for the of an individual enrolled in the individual options waiver, or the funding amount available to meet the assessed needs of an individual enrolled in the level one waiver or the self-empowered life funding waiver. The county board also shall determine whether the annual cost for non-medical transportation can be met by or exceeds the assigned budget limitation for the of an individual enrolled in the individual options waiver, or the funding amount available to meet the assessed needs of an individual enrolled in the level one waiver or the self-empowered life funding waiver. The service and support administrator shall inform the individual of these determinations in accordance with procedures developed by the department.

(4) If an individual requests a change in the frequency and/or duration of adult day support, career planning, group employment support, individual employment support, non-medical transportation, and/or vocational habilitation, the request may result in an increase or decrease in the annual cost for these services, based on the outcome of the individual service plan development process. The county board has the authority and responsibility to make changes which result from the individual service plan development process when the services are within the budget limitations ~~determined in accordance with paragraph (C) of this rule~~ of an individual enrolled in the individual options waiver, or within the funding amount available to meet the assessed needs of an individual enrolled in the level one waiver or the self-empowered life funding waiver.

~~(5) Prior state level review shall not be required for the initiation and/or changes in services that can occur within the budget limitation resulting from a revision to the individual service plan that has been agreed to by an individual through the individual service plan development process.~~

~~(6)(a)~~ Changes in the assigned budget limitations of an individual enrolled in the individual options waiver made by county boards are subject to review by the department and approval by the Ohio department of medicaid.

~~(7)(b)~~ Neither the department nor the county board shall approve a change in a budget limitation or assign a new budget limitation to an individual enrolled in the individual options waiver after notification that the individual has requested a hearing pursuant to section 5160.31 of the Revised Code concerning the approval, denial, reduction, or termination of services in an individual service plan that has been developed within the funding parameters of this rule.

(E) Group assignments, billing units, documentation, and payment conditions

(1) Billing for adult day support, group employment support, and vocational habilitation shall correspond to the payment rates for the group assignment of individuals being served.

(2) Changes in group assignments, other than changes between group A and group A-1, may be made only as the result of a change in the acuity assessment instrument score of an individual, an administrative review decision made by the department, or receipt of a formal due process appeal decision rendered by the Ohio department of medicaid.

(3) Provider qualifications, requirements for service delivery and documentation of services, and payment standards for adult day support, career planning,

group employment support, individual employment support, non-medical transportation, and vocational habilitation are set forth in the applicable rule for the specific service provided.

- (4) Career planning and individual employment support shall be provided at a ratio of one staff to one individual.
- (5) Agency providers shall ensure and document that sufficient numbers of staff are engaged in provision of adult day support, group employment support, and vocational habilitation to ensure the health and safety and achievement of outcomes identified in the individual service plans of individuals being served; submission of a claim for payment constitutes an attestation by the agency provider that sufficient staff were present to ensure health and safety and achievement of outcomes. No more than sixteen individuals may receive services in one group, irrespective of the funding source for the services being provided to the individual participants.

(F) Payment authorization and administrative review

- (1) The county board shall complete a payment authorization and the service and support administrator shall ensure waiver services are initiated for an individual whose annual cost for adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation and whose annual cost for non-medical transportation are within ~~or below~~ the budget limitations ~~determined in accordance with this rule of an individual enrolled in the individual options waiver or within the funding amount available to meet the assessed needs of an individual enrolled in the level one waiver or the self-empowered life funding waiver.~~ The service and support administrator shall inform the individual in writing in a form and manner the individual understands, of ~~his or her~~ the individual's due process rights and responsibilities as set forth in section 5160.31 of the Revised Code.
- ~~(2) When the annual cost for adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation exceeds the assigned budget limitation, the service and support administrator shall inform the individual of his or her right to request an administrative review to obtain adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation services that result in a new group assignment and budget limitation that exceeds the budget limitation determined initially by the county board in accordance with paragraph (C) of this rule.~~

- ~~(3)~~(2) Applicants for and recipients of waiver services who demonstrate that situational demands associated with the adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation services in which they desire to participate require a group assignment ~~and resulting budget limitation~~ that is ~~greater~~ different than the group assignment resulting from administration of the acuity assessment instrument may submit a request for administrative review. Administrative review requests shall not be accepted for individuals having group assignment C.
- ~~(4)~~(3) The department considers the budget limitations contained in appendix B to this rule sufficient to meet the service requirements of any adult enrolled in the individual options waiver participating in adult day services. Therefore, in no instance will the group assignment and resulting total budget limitation approved through the administrative review process exceed the published amount for group C in the cost-of-doing-business category in which the individual receives the preponderance of the services addressed in this rule.
- ~~(5)~~(4) An individual or the county board, with the consent of the individual, may submit a request for administrative review to the department. County boards shall assist an individual to request an administrative review when asked to do so by the individual.
- ~~(6)~~(5) The individual or county board requesting administrative review shall submit information requested by the department including but not limited to:
- (a) The proposed group assignment for each waiver service;
 - (b) The duration of the proposed group assignment for each waiver service; and
 - (c) A statement justifying the proposed group assignment with supporting documentation.
- ~~(7)~~(6) The department shall make a determination within thirty calendar days following receipt of the information described in paragraph ~~(F)(6)~~ (F)(5) of this rule and shall notify the individual and county board in writing of the determination.
- ~~(8)~~(7) The administrative review approval shall apply to the individual's current waiver eligibility span. The department may extend the approval to one or more months in the consecutive waiver eligibility span. Requests for administrative review may be submitted on an as-needed basis and will be considered for

approval if the individual continues to meet the criteria established by the department.

~~(9)~~(8) Following completion of the administrative review process, the department shall inform the individual in writing in a form and manner the individual understands, of ~~his or her~~ the individual's due process rights and responsibilities as set forth in section 5160.31 of the Revised Code.

~~(10)~~(9) If, through the administrative review process, the department approves the request for ~~an increased budget limitation~~ a different group assignment, the county board shall ensure a payment authorization is completed within fifteen calendar days following the determination by the department and shall ensure waiver services are initiated.

~~(11)~~(10) If, through the administrative review process, the department denies the request for ~~an increased budget limitation~~ a different group assignment or if the service is not subject to an administrative review, the service and support administrator shall initiate the individual service plan development process to determine if an individual service plan can be developed that is acceptable to the individual and is within the assigned budget limitation or funding amount available.

(a) If an individual service plan that meets these conditions is developed, the county board shall ensure a payment authorization is completed and shall ensure waiver services are initiated.

(b) If an individual service plan that meets these conditions cannot be developed, the county board shall propose to deny the initial or continuing provision of adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation and inform the individual of ~~his or her~~ the individual's due process rights and responsibilities as set forth in section 5160.31 of the Revised Code.

~~(12)~~(11) The department shall use the twelve-month period following either an individual's initial individual options waiver enrollment date or the date the individual transitions to one or more of the services addressed in this rule to verify that cumulative payments made for ~~waiver~~ adult day services remain within the approved budget limitations specified in this rule.

~~(13)~~(12) The Ohio department of medicaid retains the final authority, based on the recommendation of the department, to review, revise, and approve any element of the decision process resulting in a determination made under this rule.

(G) Due process rights and responsibilities

Applicants for and recipients of waiver services administered by the department shall use the process set forth in section 5160.31 of the Revised Code and rules implementing that statute for any challenge related to the administration and/or scoring of the acuity assessment instrument or to the type, amount, level, scope, or duration of services included or excluded from an individual service plan. A change in staff to waiver recipient service ratios does not necessarily result in a change in the level of services received by an individual.

Effective: 7/1/2022

Five Year Review (FYR) Dates: 2/1/2025

CERTIFIED ELECTRONICALLY

Certification

06/21/2022

Date

Promulgated Under: 119.03
Statutory Authority: 5123.04, 5123.049
Rule Amplifies: 5123.04, 5123.049, 5166.21
Prior Effective Dates: 01/01/2007, 10/01/2007, 07/23/2012, 04/01/2017,
02/01/2020, 01/01/2022