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5123:2-9-17 Home and community-based services waivers - adult day support under the individual options, level one, and self-empowered life funding waivers.

(A) Purpose

This rule defines adult day support 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" means provision of regularly scheduled activities in a non-residential setting, such as assistance with acquisition, retention, or improvement of self-help, socialization, and adaptive skills that enhance the individual's social development and performance of daily community living. Adult day support activities and environments shall be designed to foster the acquisition of skills, build community membership and independence, and expand personal choice. Adult day support enables the individual to attain and maintain his or her maximum potential. Activities that constitute adult day support include, but are not limited to:
 - (a) Supports to participate in community activities and build community membership consistent with the individual's interests, preferences, goals, and outcomes.
 - (b) Supports to develop and maintain a meaningful social life, including social skill development which offers opportunities for personal growth, independence, and natural supports through community involvement, participation, and relationships.
 - (c) Supports and opportunities that increase problem-solving skills to maximize an individual's ability to participate in integrated community activities independently or with natural supports.
 - (d) Personal care including supports and supervision in the areas of personal hygiene, eating, communication, mobility, toileting, and dressing to ensure an individual's ability to experience and participate in community living.
 - (e) Skill reinforcement including the implementation of behavioral support strategies, assistance in the use of communication and mobility devices, and other activities that reinforce skills learned by the individual that are necessary to ensure his or her initial and continued participation in community life.
 - (f) Training in 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.

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- (g) Recreation and leisure including supports identified in the person-centered individual service plan as being therapeutic in nature, rather than merely providing a diversion, and/or as being necessary to assist the individual to develop and/or maintain social relationships and family contacts.
- (h) Assisting the individual with self-medication or provision of medication administration for prescribed medication and assisting the individual with or performing health-related activities in accordance with Chapter 5123:2-6 of the Administrative Code.
- (2) "Agency provider" means an entity that directly employs at least one person in addition to the chief executive officer for the purpose of providing services for which the entity must be certified in accordance with rule 5123:2-2-01 of the Administrative Code.
- (3) "Budget limitation" has the same meaning as in rule 5123:2-9-19 of the Administrative Code.
- (4) "Career planning" has the same meaning as in rule 5123:2-9-13 of the Administrative Code.
- (5) "County board" means a county board of developmental disabilities.
- (6) "Department" means the Ohio department of developmental disabilities.
- (7) "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.
- (8) "Group employment support" has the same meaning as in rule 5123:2-9-16 of the Administrative Code.
- (9) "Independent provider" means a self-employed person who provides services for which he or she must be certified in accordance with rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (10) "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.
- (11) "Individual employment support" has the same meaning as in rule 5123:2-9-15 of the Administrative Code.
- (12) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (13) "Mentor" means a person employed by or under contract with the agency provider

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who has experience providing direct services to persons with developmental disabilities and 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 adult day support.

- (14) "Non-medical transportation" has the same meaning as in rule 5123:2-9-18 of the Administrative Code.
- (15) "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.
- (16) "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.
- (17) "Vocational habilitation" has the same meaning as in rule 5123:2-9-14 of the Administrative Code.

(C) Provider qualifications

- (1) Adult day support shall be provided by an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.
- (2) Adult day support shall not be provided by an independent provider.
- (3) An applicant seeking approval to provide adult day support shall complete and submit an application and adhere to the requirements of rule 5123:2-2-01 of the Administrative Code.
- (4) An agency provider shall ensure that direct services staff who provide adult day support successfully complete, no later than ninety days after hire, an orientation program of at least eight hours that addresses, but is not limited to:
 - (a) Organizational background of the agency provider, including:
 - (i) Mission, vision, values, principles, and goals;
 - (ii) Organizational structure;
 - (iii) Key policies, procedures, and work rules;
 - (iv) Ethical and professional conduct and practice;
 - (v) Avoiding conflicts of interest; and

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- (vi) Working effectively with individuals, families, and other team members.
- (b) Components of quality care for individuals served, including:
 - (i) Interpersonal relationships and trust;
 - (ii) Cultural and personal sensitivity;
 - (iii) Effective communication;
 - (iv) Person-centered philosophy, planning, and practice;
 - (v) Development of individual service plans;
 - (vi) Roles and responsibilities of team members; and
 - (vii) Record keeping including progress notes and incident/accident reports.
- (c) Health and safety, including:
 - (a) Signs and symptoms of illness or injury and procedure for response;
 - (b) Building/site-specific emergency response plans; and
 - (c) Program-specific transportation safety.
- (d) Positive behavioral support, including:
 - (i) Principles of positive intervention culture;
 - (ii) Role of direct service staff in creating a positive culture;
 - (iii) General requirements for intervention strategies and behavioral support strategies and direct service staff role including documentation;
 - (iv) Human rights committees; and
 - (v) Crisis intervention techniques.
- (e) Services that comprise adult day support as it is defined in this rule.
- (5) An agency provider shall ensure that each direct services staff who provide adult day support (other than those who have at least one year of experience providing adult day support), during the first year after hire, are assigned and have access to a mentor.
- (6) An agency provider shall ensure that direct services staff who provide adult day support (other than those who have at least one year of experience providing adult day support), no later than one year after hire, successfully complete at least eight hours of training specific to the provision of adult day support that includes, but is not limited to:

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- (a) Skill building in the necessary activities and environments that build on the individual's strengths and foster the development of skills that lead to greater independence, community membership, relationship-building, and self-direction;
 - (b) Developing natural supports; and
 - (c) 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.
- (7) An agency provider shall ensure that each direct services staff member who provides adult day support successfully completes on-the-job training specific to each individual he or she serves that includes, but is not limited to:
- (a) Requirements set forth in the individual service plan including skill development goals, service/support activities, planned interventions, behavioral support strategy, and related documentation requirements;
 - (b) The individual's preferences and strengths;
 - (c) The individual's diagnoses and related needs;
 - (d) The individual's care needs including nutrition, diet and mealtime support, restroom assistance, mobility needs, lifting, and general supervision/support requirements;
 - (e) Medication administration and delegated nursing, as applicable;
 - (f) Teaching techniques and related documentation requirements; and
 - (g) The employee's or contractor's role regarding management of the individual's funds and related documentation requirements.
- (8) An agency provider shall ensure that direct services staff who provide adult day support, commencing in the second year of hire by the agency provider, annually complete at least eight hours of training, in accordance with the written plan of training priorities described in paragraph (C)(9) of this rule.
- (a) The training shall enhance the skills and competencies of the direct services staff member relevant to his or her job responsibilities and shall include, but is not limited to:
 - (i) The 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 including a review of health and welfare alerts issued by the department since the

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previous year's training;

(iii) The requirements relative to the direct services staff member's role in providing behavioral support to the individuals he or she serves; and

(iv) Best practices related to the provision of adult day support.

(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.

(9) An agency provider shall develop and implement a written plan identifying training priorities for direct services staff who provide adult day support. 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 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.

(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 adult day support 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) 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) Adult day support is available to individuals who are no longer eligible for educational services based on their graduation and/or receipt of a diploma or equivalency certificate and/or their permanent discontinuation of educational services within parameters established by the Ohio department of education.

(2) Adult day support shall be provided pursuant to a person-centered individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code and shall be coordinated with other services and supports set forth in the individual service plan.

(3) Adult day support may be provided in a variety of settings in the community, but shall not be furnished in the individual's residence or other residential living arrangement.

(4) A provider of adult day support shall comply with applicable laws, rules, and

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regulations of the federal, state, and local governments pertaining to the physical environment (building and grounds) where adult day support is provided. A provider of adult day support shall be informed of and comply with standards (e.g., Americans with Disabilities Act of 1990) applicable to the service setting.

- (5) Adult day support includes both individual activities and group activities. The nature of group activities and the number of staff providing adult day support to a group of individuals shall be appropriate to meet the needs and achieve the outcomes identified in each group member's person-centered individual service plan.
- (6) When meals are provided as part of adult day support, they shall not constitute a full nutritional regimen (i.e., three meals per day).
- (7) A provider of adult day support shall recognize changes in the individual's condition and behavior as well as safety and sanitation hazards, report to the service and support administrator, and record the changes in the individual's written record.

(E) Documentation of services

Service documentation for adult day support 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 in the approved individual service plan as the services to be provided.
- (10) Times the delivered service started and stopped.
- (11) Number of units of the delivered service.

(F) Payment standards

- (1) The billing units, service codes, and payment rates for adult day support are contained in appendix A to this rule. Payment rates include an adjustment based on the county

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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 for adult day support, career planning, group employment support, individual employment support, and vocational habilitation, alone or in combination, shall not exceed the budget limitations contained in appendix C to rule 5123:2-9-19 of the Administrative Code.
- (3) Payment rates for adult day support may be modified to reflect the needs of individuals requiring behavioral support and/or medical assistance in accordance with paragraphs (F)(3)(a) and (F)(3)(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) The behavioral support rate modification shall be paid during all times when adult day support 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 receives ongoing behavioral support services from a licensed, certified, or other specially trained professional to address the identified behavior; and

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- (d) 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)(3)(a)(ii) of this rule have been met, the county board shall apply the behavioral support rate modification for adult day support. 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 shall be paid during all times when adult day support 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 medication 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.
- (4) Payment rates for adult day support shall be modified when the service is provided in integrated settings in groups of four or fewer individuals and the staff providing the service have demonstrated enhanced competency by successfully completing a department-approved program of instruction. The amount of the community integration rate modification for each fifteen-minute billing unit of service is contained in appendix A to this rule.

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(G) Providers certified by the Ohio department of aging

- (1) An agency provider certified by the department to provide adult day support may contract with and reimburse a provider certified by the Ohio department of aging for adult day support provided to individuals enrolled in individual options, level one, and self-empowered life funding waivers.
- (2) A provider certified by the Ohio department of aging that is under contract with an agency provider certified by the department to provide adult day support is not subject to the requirements set forth in paragraph (C) of this rule.
- (3) A provider certified by the Ohio department of aging that is under contract with an agency provider certified by the department to provide adult day support shall:
 - (a) Meet the conditions of participation for a long-term care agency provider in accordance with rule 173-39-02 of the Administrative Code;
 - (b) Be certified as a long-term care agency to provide enhanced adult day service and/or intensive adult day service in adult day service centers, as defined in rule 173-39-02.1 of the Administrative Code;
 - (c) Require all employees and contractors who provide adult day support to comply with rule 5123:2-17-02 of the Administrative Code;
 - (d) Participate in annual on-site provider structural compliance reviews conducted by the Ohio department of aging in accordance with rule 173-39-04 of the Administrative Code; and
 - (e) Meet the requirements of rule 173-39-04 of the Administrative Code within forty-five business days from each date a structural compliance review report is mailed from the Ohio department of aging designee.
- (4) The agency provider certified by the department to provide adult day support shall retain documentation that verifies that the provider certified by the Ohio department of aging complies with the requirements set forth in paragraph (G)(3) of this rule.
- (5) A unit of adult day support provided through contract with a provider certified by the Ohio department of aging does not include transportation time.
- (6) Notwithstanding paragraph (E) of this rule, service documentation for the provision of adult day support provided through contract with a provider certified by the Ohio department of aging shall comply with the provisions of rule 173-39-02.1 of the Administrative Code.
- (7) Notwithstanding the requirements of paragraph (F) of rule 173-39-02.1 of the Administrative Code, a provider certified by the Ohio department of aging is not required to arrange or provide non-medical transportation for individuals, but may provide non-medical transportation directly or through a contract, if selected by the individual.

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- (8) Except as otherwise set forth in this rule, all of the provisions of this rule and rule 5123:2-9-19 of the Administrative Code are applicable to adult day support provided through contract with a provider certified by the Ohio department of aging.

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APPENDIX A

BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR ADULT DAY SUPPORT

Adult Day Support Provided by Providers Certified by the Ohio Department of Developmental Disabilities

Billing Unit: Fifteen minutes

Service Codes: When Provided in Integrated Settings in Groups of Four or Fewer
Individuals by Staff who Have Demonstrated Enhanced Competency

Individual Options Waiver	ADE
Level One Waiver	FDE
Self-Empowered Life Funding Waiver	SDE

Otherwise Provided

Individual Options Waiver	ADF
Level One Waiver	FDF
Self-Empowered Life Funding Waiver	SDF

Payment Rates: Listed below by cost-of-doing-business (CODB) category. Rates are presented on a per-person basis, segregated by group assignment. Rates shall not be further altered to reflect actual group size.

CODB Category	Group A	Group A-1	Group B	Group C
1	\$1.58	\$1.19	\$2.84	\$4.73
2	\$1.59	\$1.20	\$2.87	\$4.78
3	\$1.61	\$1.21	\$2.90	\$4.83
4	\$1.63	\$1.22	\$2.93	\$4.88
5	\$1.64	\$1.23	\$2.96	\$4.93
6	\$1.66	\$1.25	\$2.99	\$4.98
7	\$1.68	\$1.26	\$3.02	\$5.02
8	\$1.69	\$1.27	\$3.04	\$5.07

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Adult Day Support Provided Through Contract With Providers Certified by the Ohio Department of Aging

Billing Units: Fifteen minutes

Service Codes: When Provided in Integrated Settings in Groups of Four or Fewer
Individuals by Staff who Have Demonstrated Enhanced Competency

Individual Options Waiver	AGE
Level One Waiver	FGE
Self-Empowered Life Funding Waiver	SGE

Otherwise Provided

Individual Options Waiver	AGF
Level One Waiver	FGF
Self-Empowered Life Funding Waiver	SGF

Payment Rates: Listed below by cost-of-doing-business (CODB) category. Rates are presented on a per-person basis, segregated by group assignment. Rates shall not be further altered to reflect actual group size.

CODB Category	Group A	Group B	Group C
1	\$1.58	\$2.88	\$4.73
2	\$1.59	\$2.89	\$4.78
3	\$1.61	\$2.90	\$4.83
4	\$1.63	\$2.93	\$4.88
5	\$1.64	\$2.96	\$4.93
6	\$1.66	\$2.99	\$4.98
7	\$1.68	\$3.02	\$5.02
8	\$1.69	\$3.04	\$5.07

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Behavioral Support Rate Modification

Billing Unit: Fifteen minutes

Rate Modification Amount: \$ 0.63

Instructions: Indicate modification on the cost projection and payment authorization.

Medical Assistance Rate Modification

Billing Unit: Fifteen minutes

Rate Modification Amount: \$ 0.12

Instructions: Indicate modification on the cost projection and payment authorization.

Community Integration Rate Modification

Billing Unit: Fifteen minutes

Rate Modification Amount: \$ 0.52

Instructions: Indicate modification on the cost projection and payment authorization.

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APPENDIX B

COST-OF-DOING-BUSINESS CATEGORIES

Category 1: Adams
Athens
Belmont
Gallia
Guernsey
Harrison
Jefferson
Meigs
Monroe
Pike
Ross
Scioto
Tuscarawas
Vinton
Washington

Category 2: Carroll
Crawford
Defiance
Highland
Hocking
Jackson
Lawrence
Mercer
Morgan
Muskingum
Noble
Paulding
Perry
Van Wert
Wyandot

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Category 3: Allen
Auglaize
Brown
Clinton
Columbiana
Coshocton
Fayette
Hancock
Holmes
Knox
Marion
Morrow
Putnam
Richland
Seneca
Shelby
Williams

Category 4: Ashland
Darke
Erie
Fairfield
Fulton
Hardin
Henry
Huron
Licking
Logan
Mahoning
Pickaway
Sandusky
Stark
Trumbull
Wood

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Category 5: Ashtabula
Champaign
Clark
Delaware
Greene
Lucas
Madison
Miami
Montgomery
Ottawa
Preble
Union
Wayne

Category 6: Clermont
Franklin
Geauga
Lake
Lorain
Medina
Portage
Summit

Category 7: Butler
Cuyahoga
Warren

Category 8: Hamilton