

## Proposed Amendments – 12/31/09

5123:2-13-07 **Individual options waiver—homemaker/personal care daily billing unit for congregate settings where individuals share services HCBS waivers - homemaker/personal care daily billing unit for sites where individuals enrolled on the individual options waiver share services.**

### (A) Purpose

The purpose of this rule is to establish the reimbursement process for homemaker/personal care (HPC) when individuals share the services of the same provider ~~in at the same setting site~~ as part of the home and community-based services (HCBS) individual options waiver administered by the Ohio department of developmental disabilities (the department). ~~This rule builds on concepts and definitions in rule 5123:2-9-06 and other rules of the Administrative Code.~~ This rule ~~provides a process~~ establishes a daily billing unit for those individuals/settings individuals/sites that qualify, which shall be used instead of the ~~billing requirements outlined fifteen-minute billing unit established~~ in rule 5123:2-9-06 of the Administrative Code.

### (B) Definitions

- ~~(1) "Cost projection instrument" means the analytical tools used by county boards of mental retardation and developmental disabilities (county boards), providers, and individuals to determine the total estimated number of direct service hours and total planned HPC costs based on individual service plans (ISPs) for individuals who are sharing HPC services by the same provider within the same site. These tools shall be validated by the Ohio department of mental retardation and developmental disabilities (ODMRDD) to be in compliance with rates and other components of rule 5123:2-9-06 of the Administrative Code. The cost projection instrument shall include those elements approved by ODMRDD.~~
- (1) "Cost projection tool" (CPT) means the web-based analytical tool developed and administered by the department and used by county boards of developmental disabilities (county boards) to project the cost of HCBS waiver services identified in the individual service plans of individuals enrolled on individual options and level one HCBS waivers.
- (2) "Daily billing unit" (DBU) means the amount of a provider's reimbursement that is apportioned to each individual who lives ~~in the residence~~ at the site and shares HPC services with others ~~in a manner that is most consistent with efficiency, economy, and quality of care.~~ The daily billing unit is determined via the ~~ODMRDD web based calculation tool~~ daily rate application in accordance with planning information entered by the county board and actual service information entered by the provider of HPC services.

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(3) "Daily rate application" (DRA) means the web-based analytical tool developed and administered by the department and used by county boards to project the cost of HPC services identified in the ISP when individuals share the services of the same provider at the same site as part of the HCBS individual options waiver.

(4) "Direct service hours" means the direct staff time spent delivering HPC services. A direct service hour is comprised of four fifteen-minute billing units.

~~(5)~~ As defined in rule 5123:2-9-06 of the Administrative Code, a "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.

~~(5)(6)~~ "Service documentation" means the maintenance of all records and information on one or more documents, including documents that may be ~~printed from~~ created or maintained in electronic software programs, kept in a manner as to fully disclose the nature and extent of services delivered and must include the items defined in paragraph (G) of this rule to validate medicaid reimbursement.

~~(6)(7)~~ "Site span" means a period of time where there are no changes to the estimated total costs or estimated total direct service hours for a site where individuals share HPC services of a provider. An individual may have one or more site spans during one waiver span.

### (C) Circumstances excluded from the ~~daily billing unit~~ DBU reimbursement approach

(1) Individuals who receive HPC services and supports in adult foster care settings shall receive services as defined in rule 5123:2-13-06 of the Administrative Code. ~~The service and support administrator (SSA) shall explain to the individual that adult foster care is in lieu of HPC except as provided in paragraph (E) of rule 5123:2-13-06 of the Administrative Code. A daily billing unit DBU for HPC shall not be billed on the same day as adult foster care.~~

(2) Individuals who do not share the HPC services of the same provider ~~in~~ at the same ~~setting site~~ are required to shall remain on the fifteen-minute billing unit approach ~~outlined~~ established in rule 5123:2-9-06 of the Administrative Code. ~~Examples include:~~

~~(a) Individuals who live alone; and~~

~~(b) Individuals who live with their family and do not share the HPC services of a provider with others.~~

(3) Individuals who share occasional or time-limited services of a provider in addition to their primary residential provider ~~are required to~~ shall remain on the

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fifteen-minute billing unit approach ~~outlined~~ established in rule 5123:2-9-06 of the Administrative Code for the occasional or time-limited HPC services of their non-residential provider. Examples include but are not limited to:

- (a) Individuals who live together and share HPC services of an agency provider or ~~individual~~ independent provider and who use a second HPC provider for recreational activities;
- (b) Individuals who live in different homes who travel with an agency provider or ~~individual~~ independent provider who is not their residential provider to a recreational event such as bowling, respite, or camp on a monthly or weekly basis; and
- (c) Individuals who live alone and share services ~~on a routine basis~~ with a neighbor or other eligible person.

### (D) Calculation of the individual ~~daily billing unit~~ DBU

- (1) The Ohio developmental disabilities profile (ODDP) shall be administered for the individual by the ~~SSA~~ service and support administrator (SSA) in accordance with rule 5123:2-9-06 of the Administrative Code and ~~ODMRDD~~ the department's written guidelines. Administration of the ODDP establishes the funding range for the individual.
- (2) The process ~~shall be followed in accordance with~~ for determining an individual's funding level, set forth in rule 5123:2-9-06 of the Administrative Code, shall be followed. ~~including the base rates whether or not the individual meets the criteria for the medical and behavioral add-ons, necessary staffing ratios, number of service units, on-site/on-call (OSOC), prior authorization requests as necessary, and explanation of due process rights.~~
- (3) For situations where there is at least one staff person serving more than one individual during sleep hours and of those individuals, at least one individual's ISP calls for routine HPC through the sleep hours, while at the same time at least one other individual has a need for ~~OSOC~~ on-site/on-call (OSOC), the provider shall be reimbursed at the routine HPC ~~routine~~ rate as set forth in rule 5123:2-9-06 of the Administrative Code, which shall be determined by the number of awake staff and the number of individuals who are receiving routine HPC ~~routine~~. The cost of that rate shall be apportioned so that the individuals receiving OSOC shall be charged the OSOC rate as set forth in rule 5123:2-9-06 of the Administrative Code and the individuals receiving routine HPC ~~routine~~ shall be charged an equal share of the remainder of the cost. The following examples are provided to illustrate how the rates are determined and how the cost of those rates is apportioned. The examples utilize rates in rule 5123:2-9-06 of the Administrative Code for cost-of-doing-business factor one.

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- (a) Example 1. Four individuals live together and have one staff person during sleep hours. One individual receives routine HPC ~~routine~~ and the other three individuals receive OSOC.

-Example 1-

<u>Routine</u> HPC <del>routine</del> base rate 1:1	\$4.52
OSOC 1:4	\$3.24
Individual 1 (1/4 of OSOC 1:4)	\$.81
Individual 2 (1/4 of OSOC 1:4)	\$.81
Individual 3 (1/4 of OSOC 1:4)	\$.81
Individual 4 ( <u>routine</u> HPC <del>routine</del> base rate - remainder)	\$2.09
Total reimbursement for 1 staff	\$4.52

- (b) Example 2. Five individuals live together and have one staff person during sleep hours. Two individuals receive routine HPC ~~routine~~ and the other three individuals receive OSOC.

-Example 2-

<u>Routine</u> HPC <del>routine</del> base rate 1:2	\$4.83
OSOC 1:5	\$3.24
Individual 1 (1/5 of OSOC 1:5)	\$.648
Individual 2 (1/5 of OSOC 1:5)	\$.648
Individual 3 (1/5 of OSOC 1:5)	\$.648
Individual 4 ( <u>routine</u> HPC <del>routine</del> base rate - 1/2 remainder)	\$1.443
Individual 5 ( <u>routine</u> HPC <del>routine</del> base rate - 1/2 remainder)	\$1.443
Total reimbursement for 1 staff	\$4.83

- (4) Using a ~~cost projection instrument that has been validated by ODMRDD~~ the CPT, the SSA or other county board designee, with input from members of the individual's ISP team, shall project the service utilization for the individuals who share services based on factors including but not limited to: a typical usage pattern and identified waiver span, adjustments based on past history, holidays, day service site closings, weekends, and other anticipated changes to direct service hours. The result shall include total planned HPC costs based on ISPs for the site and a total projected number of service hours for the site. These projections include any individual's prior authorization requests that have been approved pursuant to rule 5101:3-41-12 of the Administrative Code. The summary and detail information included in the ~~cost projection tool~~ CPT shall be ~~shared with~~ available to the individual's provider. ~~This information shall also be shared with others as designated by the individual at the request of the individual.~~

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- (5) ~~For each site span, after the payment authorization for waiver services (PAWS) has been confirmed by ODMRDD, the county board shall enter the following information into the ODMRDD web-based calculation tool which shall be used in the calculations described in paragraph (D)(6) of this rule:~~ The DRA shall include:
- (a) Total planned HPC costs for the site based on ISPs for individuals who are sharing HPC services by the same provider within the site;
  - (b) Total estimated HPC hours for the site to be provided; and
  - (c) Each individual's authorized funding for HPC services.
- (6) After HPC services are provided at the site, the provider shall enter into the ~~ODMRDD web-based calculation tool~~ DRA, the number of direct service hours rendered for all individuals for a specific seven-day time span, or up to a fourteen-day time span if the DBU is expected to exceed the maximum medicaid reimbursement rate for the seven-day time span, and the specific dates that each individual received HPC services at the site. Using the ~~total planned HPC costs based on ISPs for the site and total planned HPC hours for the site results from the CPT~~, the ~~web-based calculation tool~~ DRA determines the provider's direct service hourly rate for that site. The ~~web-based calculation tool~~ DRA ~~will then calculate~~ calculates the maximum HPC payment to the provider for that ~~seven-day~~ period. The ~~web-based calculation tool~~ DRA then determines how the total payment to that provider for ~~the seven-day~~ that period shall be apportioned to each individual's authorized budget, resulting in a ~~daily billing unit~~ DBU for each individual for each day that services were provided. The provider then uses that information to prepare a claim for reimbursement.
- (7) When changes occur within the site that affect the total estimated direct service hours, total planned HPC costs based on ISPs, or an individual's predicted ongoing participation at the site, the county board shall enter changes into the cost projection ~~instrument tool~~ and then the web-based calculation tool for a new, prospective site span. These changes shall be made ~~in concert~~ along with any necessary changes to the ISP ~~process and PAWS~~ and cost projection and payment authorization for the individual(s) living in the household who will be affected by these changes.
- (a) If, during a site span, there is a significant change of service needs for an individual that may impact the total estimated direct service hours, total planned HPC costs based on ISPs, or an individual's predicted ongoing participation at the site, the provider shall notify the county board. The provider and the county board shall work together to identify potential solutions.

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(b) If the individual/guardian, county board, or provider wishes to convene a meeting to discuss a significant change of service needs for an individual during a site span, that meeting shall occur within ten working days of the day the request was made. Discussion shall occur in accordance with paragraph ~~(E)(7)~~ (C)(6) of rule 5123:2-9-06 of the Administrative Code.

(E) Agency providers of HPC may subcontract the provision of HPC services in accordance with paragraph (I) of rule 5123:2-13-04 of the Administrative Code. The subcontracted services shall be provided in accordance with this rule and rule 5123:2-9-06 of the Administrative Code.

### ~~(F) Transition to the daily billing unit~~

~~(1) Individuals who share the HPC services of the same residential provider in the same setting and who have not yet transitioned to the fifteen-minute unit reimbursement system shall transition directly to the approach outlined in this rule in accordance with timelines agreed to by ODMRDD, the Ohio department of job and family services (ODJFS), and the federal centers for medicare and medicaid services (CMS).~~

~~(2) Individuals who share the HPC services of the same residential provider in the same setting and whose service reimbursement has already been converted to the statewide fifteen-minute unit reimbursement system shall convert to the daily billing unit reimbursement approach described in this rule within one year of the effective date of this rule.~~

~~(3)~~ (F) The director of ~~ODMRDD~~ the department reserves the right to allow a provider of HPC ~~residential~~ services to continue to use the fifteen-minute ~~reimbursement system~~ billing unit in the event of a unique and/or extenuating circumstance. This right shall be exercised in consultation with ODJFS as the single state medicaid agency.

~~(4) In no circumstance shall negotiated reimbursement be permitted beyond the timelines agreed to by ODMRDD, ODJFS, and CMS.~~

### (G) Service documentation requirements

(1) Notwithstanding paragraphs (B) and (E) of rule 5123:2-9-05 of the Administrative Code, service documentation for HPC when individuals share the services of the same provider at the same site shall include each of the following to validate medicaid reimbursement:

(a) Date of service.

(b) Place of service.

(c) Name of recipient(s) receiving services each day.

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- (d) Description and details of the services delivered that directly relate to the services specified on the individual's approved ISP as the services to be provided.
  - (e) Medicaid identification number of the recipient(s).
  - (f) Name of provider.
  - (g) Provider identifier/contract number.
  - (h) 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, or an electronic process approved by ~~ODMRDD~~ the department.
- ~~(2) Reimbursements made to the provider for services delivered that are not supported by service documentation or are supported by service documentation that does not include all of the required items listed in paragraph (G)(1) of this rule may be recoverable under paragraph (P) of rule 5123:1-2-08 of the Administrative Code, paragraph (N) of rule 5123:1-2-11 of the Administrative Code, or paragraph (I) of rule 5123:2-9-06 of the Administrative Code.~~
- (2) Overpayments, duplicate payments, payments for services not rendered, payments for which there is no documentation of services delivered, or payments for services not in accordance with an approved ISP are recoverable by the department, ODJFS, the auditor of state, or the office of the attorney general. All recoverable amounts are subject to the application of interest in accordance with rule 5101:3-1-25 of the Administrative Code.
- (H) Payment standards
- (1) Notwithstanding the requirements of paragraphs ~~(D)(1), (D)(11), and (D)(12)~~ (F)(5), (H)(3), and (H)(4) of rule 5123:2-9-06 of the Administrative Code, the billing process and payment for HPC services when individuals share the services of the same provider ~~in~~ at the same ~~setting~~ site shall be at a ~~daily billing unit DBU~~ daily billing unit DBU for each individual based on that individual's apportioned share of the services rendered at the site and the number of days each person receives services pursuant to the ~~web-based calculation tool DRA~~ DRA. The service codes for the HPC daily billing unit are contained in the appendix to this rule.
  - (2) The ~~ODMRDD-validated cost projection instrument CPT~~ CPT shall utilize the lower of the provider's usual and customary rate or the statewide HPC rates established in appendix A to rule 5123:2-9-06 of the Administrative Code, including the projected staff to individual ratios to determine ~~daily billing units DBU~~ DBU.



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- (3) Agency providers of HPC may bill for each day the individual receives HPC through the agency.
- (4) ~~Individual~~ Independent providers of HPC may bill for each day the HPC service is delivered by the provider. ~~Individual~~ Independent providers shall work with the individual's SSA to arrange for substitute coverage, when needed.
- (5) Payment for HPC does not include room and board, items of comfort or convenience, or costs for the maintenance, upkeep, and improvement of the home.
- (6) ODJFS retains the final authority, based on the recommendation of ~~ODMRDD~~ the department, to establish payment rates for all waiver services included in HCBS waivers administered by ~~ODMRDD~~ the department.

### (H) Monitoring

- (1) Providers, county boards, and ~~ODMRDD~~ the department shall have access to ~~both PAWS~~ utilization reports and reports generated by the ~~web-based calculation tool~~ DRA in order to monitor estimated services and actual services provided at each specific site. This information shall be made available to ODJFS upon request.
- (2) ~~ODMRDD~~ The department shall monitor the ongoing progress of the ~~daily billing unit~~ DBU reimbursement approach through a series of fiscal control and quality assurance procedures including: ~~validation of existing cost projection instruments~~; validation of total expenditures and total hours that are entered by the county board into the ~~web-based calculation tool~~ CPT; verification that ~~daily billing units~~ DBUs are supported by appropriate documentation; and verification that provider service hours rendered are reported appropriately. Each type of procedural monitoring shall take place in each region of the state and shall be summarized in a report to ODJFS every six months.
- (3) ODJFS reserves the right to perform independent oversight reviews as part of its general oversight functions, in addition to ~~ODMRDD~~ the department monitoring activities described in paragraph ~~(H)(2)~~ (H)(2) of this rule.



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### (I) Due process rights and responsibilities

- (1) Any recipient or applicant for waiver services administered by ~~ODMRDD~~ the department may utilize the process set forth in section 5101.35 of the Revised Code, in accordance with division 5101:6 of the Administrative Code for any purpose authorized by that statute and the rules implementing the statute. The process set forth in section 5101.35 of the Revised Code is available only to applicants, recipients, and their lawfully appointed authorized representatives. Providers shall have no standing in an appeal under this section.
- (2) Applicants for and recipients of waiver services administered by ~~ODMRDD~~ the department shall use the process set forth in section 5101.35 of the Revised Code for any challenge related to the administration and/or scoring of the ODDP or to the type, amount/level, scope, or duration of services included or excluded from an ISP or individual behavior plan addendum. ~~For purposes of clarity, a~~ A change in staff to waiver recipient service ratios does not automatically result in a change in the level of services received by an individual.

Replaces: 5123:2-13-07

Effective: XX/XX/XXXX

R.C. 119.032 review dates: XX/XX/XXXX

Promulgated Under: 119.03

Statutory Authority: 5123.04, 5111.871, 5111.873

Rule Amplifies: 5123.04, 5111.871, 5111.873

Prior Effective Dates: 12/21/2007 (Emer.), 03/20/2008

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## Appendix

Service Codes for Daily Billing Unit for  
Homemaker/Personal Care Services  
Provided Under the Individual Options Waiver

Billing Unit: Daily

Service Codes:	Homemaker/Personal Care – Agency Provider:	ADL
	Homemaker/Personal Care – Individual Provider:	ADP