

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

To: ALL CLEARANCE REVIEWERS
From: Sara Abbott, Chief, Bureau of Long Term Care Services and Supports
Date: February 10, 2010
Subject: **Home and community based waiver services - reimbursement for waiver services administered by the department of development disabilities rule**

The Ohio Department of Job and Family Services (ODJFS) rule 5101:3-41-11 of the Administrative Code shall be rescinded and proposed new. This rule sets forth the payment standards governing reimbursement for home and community-based services (HCBS) provided by certified waiver providers to individuals enrolled in a HCBS program as a component of the medicaid program and as administered by the department of developmental disabilities (DODD) in accordance with sections 5111.85 and 5111.873 of the Revised Code.

OAC Rule 5101:3-41-11, Home and community-based waiver services - reimbursement for waiver services administered by the department of development disabilities. DODD is responsible for the daily administration of certain components of the medicaid program, to include HCBS, pursuant to an interagency agreement with the Ohio department of job and family services (ODJFS) in accordance with sections 5111.91 and 5111.871 of the Revised Code.

All of the aforementioned rules are attached for your review and comment. Also attached is a draft community access policy transmittal letter that will accompany the rules following their promulgation. The rules contained in this clearance comply with the requirements of Executive Order 2008-04S.

Thank you in advance for your review of these rules.

Attachments



Department of
Job and Family Services

Ted Strickland, Governor
Douglas E. Lumpkin, Director

Community Access Transmittal Letter- (CATL- MRDD) XX-XX

TO: Ohio Association of County Boards
Ohio Developmental Disabilities Council
Ohio Provider Resource Association
Department of Developmental Disabilities (DODD)
Ohio Legal Rights Service
Advocacy and Protective Services

FROM: Douglas E. Lumpkin, Director

SUBJECT: Home and community based waiver services - reimbursement for
waiver services rule

The Ohio Department of Job and Family Services (ODJFS) rule 5101:3-41-11 of the Administrative Code entitled home and community-based services (HCBS) waiver reimbursement for waiver services administered by the department of development disabilities is being rescinded and proposed new. This rule sets forth the payment standards governing reimbursement for home and community-based services provided by certified waiver providers to individuals enrolled in a HCBS program as a component of the medicaid program and as administered by the department of developmental disabilities (DODD) in accordance with sections 5111.85 and 5111.873 of the Revised Code.

OAC Rule 5101:3-41-11, Home and community-based waiver services -reimbursement for waiver services administered by the department of development disabilities:

Remove and File as Obsolete	Insert /Replacement
5101:3-41-11 (effective xx/xx/xxxx)	5101:3-41-11 (effective xx/xx/xxxx)

Web Pages:

The Ohio Department of Job and Family Services maintains an "electronic manuals" web page for the department's rules, manuals and handbooks. The URL is as follows:

<http://emanuals.odjfs.state.oh.us/emanuals/>

30 East Broad Street
Columbus, Ohio 43215
jfs.ohio.gov

An Equal Opportunity Employer and Service Provider

At the "electronic manuals" web page, this CATL-MRDD and rules may be viewed as follows:

- (1) Select "Ohio Health Plans – Provider."
- (2) Select "Community Access."
- (3) From the drop-down menu entitled "Table of Contents" at the top of the page, scroll to and select the desired CATL-MRDD xx-xx.
- (4) Scroll through the CATL-MRDD to the desired rule number highlighted in blue and select the rule number.

Questions:

Questions about this CATL should be addressed to:

Ohio Department of Job and Family Services

Bureau of Long Term Care Services and Supports

P.O. Box 182709

Columbus, Ohio 43218-2709

BLTSS@jfs.ohio.gov

(614) 466-6742

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

5101:3-41-11 **Home and community-based services - reimbursement for waiver programs administered by the Ohio department of mental retardation and developmental disabilities.**

- (A) The purpose of this rule is to establish the payment standards governing reimbursement for home and community-based services (HCBS) provided by certified waiver providers to individuals enrolled in an HCBS program as a component of the medicaid program and as administered by the Ohio department of mental retardation and developmental disabilities (ODMRDD) in accordance with sections 5111.85 and 5111.873 of the Revised Code.
- (B) The ODMRDD is responsible for the daily administration of certain components of the medicaid program, to include HCBS, pursuant to an interagency agreement with the Ohio department of job and family services (ODJFS) in accordance with sections 5111.91 and 5111.871 of the Revised Code.
 - (1) Individuals enrolled in an HCBS program administered by ODMRDD prior to the effective date of this rule shall be subject to the payment standards set forth in rule 5123:1-2-08 of the Administrative Code for individual options waiver, or rule 5123:1-2-11 of the Administrative Code for residential facilities and individual options waiver, or rule 5101:3-42-11 of the Administrative Code for level one waiver, or rule 5101:3-40-01 of the Administrative Code for individual options waiver and for all payments under those rules. They shall also be subject to terms of paragraphs (A) to (C) of rule 5101:3-1-60 of the Administrative Code. These individuals shall remain subject to these payment standards until they are transitioned in accordance with the period of time as specified in rule 5123:2-9-06 of the Administrative Code. Individuals shall transition to the statewide payment rates no later than June 30, 2008 as federally approved.
 - (2) Individuals enrolled in an HCBS program administered by ODMRDD on or after the effective date of this rule shall be subject to the payment standards set forth in this rule and in rule 5123:2-9-06 of the Administrative Code.
 - (3) Once the period of transition as identified in paragraph (B)(1) of this rule has transpired then the payment standards set forth in this rule and in rule 5123:2-9-06 of the Administrative Code shall be the only applicable payment standards.
 - (4) The standards and procedures for prior authorization shall apply as defined in

rule 5101:3-41-12 of the Administrative Code.

(C) For purposes of payment, services provided to individuals that meet the definition of supported employment as defined in the federally approved waiver document shall be paid as supported employment and shall not be construed as day habilitation. Reimbursement for supported employment shall not be applicable to this rule after December 31, 2007.

(D) Adult foster care

- (1) Reimbursement for adult foster care shall not exceed the rates established in appendix A to this rule and be in accordance with rule 5123:2-13-06 of the Administrative Code.
- (2) The provider shall bill ODMR/DD its usual and customary charge or the rate in appendix A to this rule.
- (3) Individuals receiving adult foster care as a waiver service shall be subject to the service limitations as defined in rule 5123: 2-13-06 of the Administrative Code.

(E) Homemaker/personal care-daily billing unit

- (1) Reimbursement for homemaker/personal care-daily billing unit shall not exceed the rates established in appendix A to this rule and be in accordance with rule 5123:2-13-07 of the Administrative Code.
- (2) The provider shall bill ODMR/DD in accordance with the payment standards as outlined in rule 5123:2-13-07 of the Administrative Code. Reimbursement rates shall not exceed the maximum rates established in appendix A to this rule unless authorized by ODJFS.
- (3) Individuals receiving homemaker/personal care-daily billing unit as a waiver service shall be subject to the service limitations as defined in rule 5123: 2-13-07 of the Administrative Code.
- (4) ODJFS and ODMRDD shall assure the validity of the cost projection tools used to determine the billing rates for the homemaker personal care daily billing unit waiver service.
- (5) ODJFS and ODMRDD shall assure the accuracy of the homemaker personal

care-daily billing unit methodology as outlined in the federally approved fiscal controls and quality assurance documents as detailed in the individual options waiver document.

- (F) Payments made to certified waiver providers by the ODMRDD are subject to the provision, conditions, and payment standards set forth in this rule and in accordance with rule 5123:2-9-06 of the Administrative Code. Payment of services made under the authority of this rule shall not exceed the maximum payment rates set forth in appendix A to this rule.
- (G) Certified waiver providers shall submit claims for the provision of HCBS in accordance with the process specified in rule 5123:2-9-06 of the Administrative Code.
- (H) Certified waiver providers of HCBS shall receive payment for the provision of HCBS as indicated in paragraph (E) of this rule when the following conditions exist:
 - (1) The waiver service is provided by an individual or agency provider that has certification for each service they provide in accordance with applicable requirements; and
 - (2) The waiver service is provided by an individual or agency provider that has a valid medicaid provider agreement in accordance with rule 5101:3-1-17.2 of the Administrative Code; and
 - (3) The waiver service is provided to an individual who is enrolled in a waiver program at the time of service; and
 - (4) The waiver service is provided in accordance with the enrollee's individual service plan; and
 - (5) The waiver service is provided within the limitations specified by the waiver program in which the individual is enrolled; and
 - (6) The waiver service provided to the individual is documented in accordance with rule 5123:2-9-05 of the Administrative Code; and
 - (7) The waiver service is provided to an enrollee who is not an inpatient of a hospital, residing in a nursing facility, or an intermediate care facility for individuals with mental retardation and other developmental disabilities (ICF/MR).

- (a) An individual enrolled in an ODMRDD administered waiver program which offers institutional respite as one of the waiver services shall not be considered a resident of an ICF/MR if an ICF/MR is providing the institutional respite service.
 - (b) An ICF/MR providing institutional respite services for any ODMRDD administered waiver program that offers such services shall not bill medicaid through the ICF/MR program. Payments for institutional respite services shall be made through the waiver program in which the individual is enrolled.
- (I) Payments made under authority of this rule constitute payment-in-full and shall not be construed as a partial payment.
- (J) Due process.
 - (1) Applicants for waiver enrollment or individuals enrolled on any waiver administered by ODMRDD shall be afforded due process in accordance with section 5101.35 of the Revised Code through the state fair hearing process, and as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
 - (2) If an applicant or enrollee requests a hearing, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the participation of ODMRDD, and/or the county board of mental retardation and developmental disabilities is required during the hearing proceedings to justify the decision under appeal, in accordance with section 5126.055 of the Revised Code.
- (K) Monitoring.
 - (1) ODJFS will monitor reimbursement made under authority of this rule as necessary to ensure that the funding applicable to HCBS are used for authorized purposes in compliance with laws, regulations, and the provisions governing the medicaid program.

Effective:

R.C. 119.032 review dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	5111.873, 5111.85
Rule Amplifies:	5111.873, 5111.85
Prior Effective Dates:	7/1/05, 10/1/07, 12/21/07 (Emer.), 7/1/10

Appendix A
Fee Schedule Maximums for Home and Community-Based Services(*1)

Service Description	Maximum Rate	Billing Unit	Individual Options Waiver Service Code	Level One Waiver Service Code	Level One Waiver Emergency Assistance Service Code
Homemaker/Personal Care(*2)	\$5.60	15 Minute	MR940	MR970	MR980
Homemaker/Personal Care – On Site/On Call(*3)	\$2.67	15 Minute	MR951	MR979	MR989
Transportation	\$0.40	Mile	MR941	MR971	MR981
Supported Employment	\$6.21	15 Minute	MR942	MR967	N/A
Interpreter Services	\$9.92	15 Minute	MR943	N/A	N/A
Nutritional Services	\$10.95	15 Minute	MR944	N/A	N/A
Informal Respite	\$2.75	15 Minute	N/A	MR972	N/A
Institutional Respite – ICF/MR	\$200.00	Day	MR945	MR973	MR983
Institutional Respite – Licensed Facility	\$130.00	Day	MR946	MR974	MR984
Social Work/Counseling Services	\$9.71	15 Minute	MR947	N/A	N/A
Home Delivered Meals	\$7.00	Meal	MR948	N/A	N/A
Environmental Modifications	\$7,500.00	Item	MR949	N/A	N/A
Adaptive and Assistive Equipment	\$10,000.00	Item	MR950	N/A	N/A
Environmental Accessibility Adaptations	\$6,000.00	Item	N/A	MR975	N/A
Environmental Accessibility Adaptations Emergency Assistance Benefit	\$8,000.00	Item	N/A	N/A	MR985
Specialized Medical Equipment and Supplies	\$6,000.00	Item	N/A	MR976	MR986
Personal Emergency Response Systems – Installation	\$6,000.00	Item	N/A	MR977	MR987
Personal Emergency Response Systems - Maintenance	\$50.00	Month	N/A	MR978	MR988
Adult Foster Care Agency (*4)	\$167.10	Day	MR073	N/A	N/A
Adult Foster Care Independent (*4)	\$149.71	Day	MR074	N/A	N/A
Homemaker/ Personal Care - Daily Billing Unit Agency (*5)	403.98	Day	MR108	N/A	N/A
Homemaker /Personal Care - Daily Billing Unit Independent (*5)	\$403.98	Day	MR109	N/A	N/A

(*1) All payments for services are subject to the benefit limitations pertaining to each waiver program pursuant to the Ohio Administrative Code.

(*2) The maximum rate for Homemaker/Personal Care represents the base rate for one-to-one service in Category 8 of \$4.85, plus the behavior support rate modification of \$0.63, plus the medical assistance rate modification of \$0.12 per 15 minute unit of service as indicated in rule 5123:2-9-06 of the Ohio Administrative Code. Billing codes for multiple staff are on page 2 of this appendix.

(*3) The maximum rate for Homemaker/Personal Care-On Site/On Call represents the rate for one-to-one service in Category 8 as indicated in rule 5123:2-9-06 of the Ohio Administrative Code (OAC) and does not allow for additional rate modifications.

(*4) The maximum rate for Adult Foster Care represents the rate for one-to-one service in Category 8 as indicated in rule 5123:2-13-06 of the OAC.

(*5) The maximum rate to reimbursed for Homemaker/Personal Care- Daily Billing Unit may not exceed the amount of \$403.98 as a service unit.

Appendix A

Fee Schedule Maximums for Home and Community-Based Services – Multiple Staff Rates and Service Codes

Service Description	Maximum Rate	Billing Unit	Individual Options	Level One	Level One Emergency
Homemaker/Personal Care					
Staff Size: 2	\$10.44	15 Minute	MR816	MR820	MR824
Staff Size: 3	\$15.29	15 Minute	MR817	MR821	MR825
Staff Size: 4	\$20.13	15 Minute	MR818	MR822	MR826
Staff Size: 5	\$24.98	15 Minute	MR819	MR823	MR827
Homemaker/Personal Care – On Site/On Call					
Staff Size: 2	\$5.35	15 Minute	MR832	MR836	MR840
Staff Size: 3	\$8.02	15 Minute	MR833	MR837	MR841
Staff Size: 4	\$10.70	15 Minute	MR834	MR838	MR842
Staff Size: 5	\$13.37	15 Minute	MR835	MR839	MR843
Supported Employment					
Staff Size: 2	\$12.42	15 Minute	MR848	MR852	N/A
Staff Size: 3	\$18.63	15 Minute	MR849	MR853	N/A
Staff Size: 4	\$24.84	15 Minute	MR850	MR854	N/A
Staff Size: 5	\$31.05	15 Minute	MR851	MR855	N/A

These maximum rates shall be applicable when multiple staff members simultaneously provide service to more than one individual.

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5101:3-41-11 **Home and community-based waiver services -reimbursement for waiver services administered by the department of developmental disabilities.**

(A) Purpose.

The purpose of this rule is to establish the payment standards governing reimbursement for home and community-based services (HCBS) provided by certified waiver providers to individuals enrolled in a HCBS program as a component of the medicaid program and as administered by the department of developmental disabilities (DODD) in accordance with sections 5111.85 and 5111.873 of the Revised Code.

(B) The DODD is responsible for the daily administration of certain components of the medicaid program, to include HCBS, pursuant to an interagency agreement with the Ohio department of job and family services (ODJFS) in accordance with sections 5111.91 and 5111.871 of the Revised Code.

(C) Individuals enrolled in a HCBS program administered by DODD shall be subject to the payment standards set forth in this rule and in rule 5123:2-9-06 of the Administrative Code.

(D) The standards and procedures set for prior authorization as defined in rule 5101:3-41-12 of the Administrative Code shall apply for individuals enrolled on the individuals options waiver.

(E) For purposes of payment, HCBS services provided to individuals enrolled on the level one or individual options waivers must meet the definition of the waiver service as defined in the federally approved waiver document.

(F) Projection of costs for HCBS services.

(1) Individuals enrolled on the individuals options waiver and sharing homemaker personal care services as defined in rule 5123:2-9-31 of the Administrative Code must have waiver costs projected by their county board of developmental disabilities with the DODD web-based cost projection tool no later than December 31, 2010.

(2) All other individual options waiver or level one waiver enrollees must have their waiver costs projected by their county board of developmental disabilities with the DODD web-based cost projection tool no later than June 30, 2011.

(3) County boards of DODD that are currently projecting costs for individuals referenced in paragraph (F)(1) of this rule shall continue to project costs by using a tool validated by DODD and approved by ODJFS until the waiver

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enrollees costs are projected with the DODD web-based cost projection tool referenced in rule 5123:2-9-06 of the Administrative Code.

(G) Adult foster care.

- (1) Reimbursement for adult foster care shall not exceed the rates established in appendix A to this rule and be in accordance with rule 5123:2-13-06 of the Administrative Code.
- (2) The provider shall bill DODD its usual and customary charge or a rate that does not exceed the maximum rate established in appendix A to this rule.
- (3) Individuals receiving adult foster care as a waiver service shall be subject to the service limitations as defined in rule 5123:2-13-06 of the Administrative Code.

(H) Homemaker personal care-daily billing unit

- (1) Reimbursement for homemaker/personal care-daily billing unit shall not exceed the rates established in appendix A to this rule and be in accordance with rule 5123:2-9-31 of the Administrative Code.
- (2) The provider shall bill DODD in accordance with the payment standards as outlined in rule 5123:2-9-31 of the Administrative Code.
- (3) County boards of developmental disabilities shall project and enter the total planned homemaker personal care costs and the total planned provider hours into the daily rate application system in accordance with rule 5123:2-9-31 of the Administrative Code.
- (4) Certified providers of the homemaker/personal care-daily billing unit service shall enter their actual direct service hours into the daily rate application system prior to requesting reimbursement for the service to DODD.
- (5) Individuals receiving homemaker/personal care daily billing unit as a waiver service shall be subject to the service limitations as defined in rule 5123:2-9-31 of the Administrative Code.
- (6) ODJFS shall periodically review the DODD cost projection tool to determine that the waiver service costs projected by the cost projection tool are projected in accordance with the administrative rules.

(I) Payments made to certified waiver providers by the DODD are subject to the provision, conditions, and payment standards set forth in this rule and in accordance with rule 5123:2-9-06 of the Administrative Code. Payment of services made under the authority of this rule shall not exceed the maximum payment rates set forth in appendix A to this rule.

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(J) Certified waiver providers shall submit claims for the provision of HCBS in accordance with the process specified in rule 5123:2-9-06 of the Administrative Code.

(K) Certified waiver providers of HCBS shall receive payment for the provision of HCBS as indicated in this rule when the following conditions exist:

(1) The waiver service is provided by an independent or agency provider that has certification for each service they provide in accordance with applicable requirements; and

(2) The waiver service is provided by an independent or agency provider that has a valid medicaid provider agreement in accordance with rule 5101:3-1-17.2 of the Administrative Code; and

(3) The waiver service is provided to an individual who is enrolled in a waiver program at the time of service; and

(4) The waiver service is provided in accordance with the enrollee's individual service plan; and

(5) The waiver service is provided within the limitations specified by the waiver program in which the individual is enrolled; and

(6) The waiver service provided to the individual is documented in accordance with rule 5123:2-9-05 of the Administrative Code; and

(7) The waiver service is provided to an enrollee who is not an inpatient of a hospital, residing in a nursing facility, or an intermediate care facility for individuals with mental retardation and other developmental disabilities (ICF/MR).

(a) An individual enrolled in an DODD administered waiver program which offers institutional respite as one of the waiver services shall not be considered a resident of an ICF/MR if an ICF/MR is providing the institutional respite service.

(b) An ICF/MR providing institutional respite services for any DODD administered waiver program that offers such services shall not bill medicaid through the ICF/MR program. Payments for institutional respite services shall be made through the waiver program in which the individual is enrolled.

(L) Payments made under authority of this rule constitute payment-in-full and shall not be construed as a partial payment.

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(M) ODJFS authority.

ODJFS retains the final authority to establish reimbursement rates for waiver services approved under the level one and individual options waivers and has final approval of any policies and rules that govern any component of the medicaid program.

(N) Due process.

- (1) Applicants for waiver enrollment or individuals enrolled on any waiver administered by DODD shall be afforded due process in accordance with section 5101.35 of the Revised Code through the state fair hearing process, and as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
- (2) If an applicant or enrollee requests a hearing, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the participation of DODD, and/or the county board of developmental disabilities is required during the hearing proceedings to justify the decision under appeal, in accordance with section 5126.055 of the Revised Code.

(O) Monitoring.

ODJFS will monitor reimbursement made under authority of this rule as necessary to ensure that the funding applicable to HCBS are used for authorized purposes in compliance with laws, regulations, and the provisions governing the medicaid program.

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Home Delivered Meals	\$7.00	Meal	MR948	N/A	N/A
Environmental Modifications	\$7,500.00	Item	MR949	N/A	N/A
Adaptive and Assistive Equipment	\$10,000.00	Item	MR950	N/A	N/A
Environmental Accessibility Adaptations	\$6,000.00	Item	N/A	MR975	N/A
Environmental Accessibility Adaptations Emergency Assistance Benefit	\$8,000.00	Item	N/A	N/A	MR985
Specialized Medical Equipment and Supplies	\$6,000.00	Item	N/A	MR976	MR986
Personal Emergency Response Systems – Installation	\$6,000.00	Item	N/A	MR977	MR987
Personal Emergency Response Systems - Maintenance	\$50.00	Month	N/A	MR978	MR988
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(*1) All payments for services are subject to the benefit limitations pertaining to each waiver program pursuant to the Ohio Administrative Code.

(*2) The maximum rate for Homemaker/Personal Care represents the base rate for one-to-one service in Category 8 of \$4.85, plus the behavior support rate modification of \$0.63, plus the medical assistance rate modification of \$0.12 per 15 minute unit of service as indicated in rule 5123:2-9-06 of the Ohio Administrative Code. Billing codes for multiple staff are on page 2 of this appendix.

(*3) The maximum rate for Homemaker/Personal Care-On Site/On Call represents the rate for one-to-one service in Category 8 as indicated in rule 5123:2-9-06 of the Ohio Administrative Code (OAC) and does not allow for additional rate modifications.

(*4) The maximum rate for Adult Foster Care represents the rate for one-to-one service in Category 8 as indicated in rule 5123:2-13-06 of the OAC.

(*5) The maximum rate to reimbursed for Homemaker/Personal Care- Daily Billing Unit may not exceed the amount of \$403.98 as a service unit.

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Staff Size: 4	\$10.70	15 Minute	MR834	MR838	MR842
Staff Size: 5	\$13.37	15 Minute	MR835	MR839	MR843
Supported Employment					
Staff Size: 2	\$12.42	15 Minute	MR848	MR852	N/A
Staff Size: 3	\$18.63	15 Minute	MR849	MR853	N/A
Staff Size: 4	\$24.84	15 Minute	MR850	MR854	N/A
Staff Size: 5	\$31.05	15 Minute	MR851	MR855	N/A

These maximum rates shall be applicable when multiple staff members simultaneously provide service to more than one individual.