

*** DRAFT – December 13, 2010 ***

5123:2-9-32 **Home and community-based services waivers - adult family living under the individual options waiver.**

(A) Purpose

The purpose of this rule is to define adult family living and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Adult" means an individual eighteen years of age or older.
- (2) "Adult family living" means personal care and support services provided to an adult by a caregiver who is related to and lives with the individual receiving the services. Adult family living is provided in conjunction with residing in the home and is part of the rhythm of life that naturally occurs when people live together as a family. Due to the environment provided by living together as a family, segregating these activities into discrete services is impractical. The supports that may be provided as a component of adult family living include the following:
 - (a) Basic personal care and grooming, including bathing, care of the hair, and assistance with clothing.
 - (b) Assistance with bladder and/or bowel requirements or problems, including helping the individual to and from the bathroom or assisting the individual with bedpan routines.
 - (c) Assisting the individual with self-medication or provision of medication administration for prescribed medications and assisting the individual with, or performing, health care activities.
 - (d) Performing household services essential to the individual's health and comfort in the home (e.g., necessary changing of bed linens or rearranging of furniture to enable the individual to move about more easily in his or her home).
 - (e) Assessing, monitoring, and supervising the individual to ensure the individual's safety, health, and welfare.
 - (f) Light cleaning tasks in areas of the home used by the individual.

*** DRAFT – December 13, 2010 ***

- (g) Preparation of a shopping list appropriate to the individual's dietary needs and financial circumstances, performance of grocery shopping activities as necessary, and preparation of meals.
 - (h) Personal laundry.
 - (i) Incidental neighborhood errands as necessary, including accompanying the individual to medical and other appropriate appointments and accompanying the individual for walks outside the home.
 - (j) Skill development to prevent the loss of skills and enhance skills that are already present that lead to greater independence and community integration.
- (3) "Agency provider" means an entity that employs persons for the purpose of providing services for which the entity must be certified under rules adopted by the department.
 - (4) "County board" means a county board of developmental disabilities.
 - (5) "Department" means the Ohio department of developmental disabilities.
 - (6) "Funding range" means one of the dollar ranges contained in appendix C to rule 5123:2-9-06 of the Administrative Code, to which individuals have been assigned for the purpose of funding services for individuals enrolled on the individual options waiver. The funding range applicable to an individual is determined by the score derived from the Ohio developmental disabilities profile that has been completed by a county board employee qualified to administer the tool.
 - (7) "Group size" means the number of individuals who are sharing services, regardless of the funding source for those services.
 - (8) "Homemaker/personal care" has the same meaning as in rule 5123:2-9-30 of the Administrative Code.
 - (9) "Independent provider" means a self-employed person who provides services for which he or she must be certified under 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. A guardian may take any action on behalf of the individual, may make choices for the individual, or may receive notice on behalf of the individual to the extent permitted by applicable law.

*** DRAFT – December 13, 2010 ***

(11) "Individual funding level" has the same meaning as in rule 5123:2-9-06 of the Administrative Code.

(12) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

(13) "Ohio developmental disabilities profile" (ODDP) means the standardized instrument utilized by the department to assess the relative needs and circumstances of an individual compared to others. The individual's responses are scored and the individual is linked to a funding range, which enables similarly situated individuals to access comparable waiver services paid in accordance with rules adopted by the department.

(14) "Related to" means the caregiver is related to the individual receiving adult family living by blood, marriage, or adoption, but does not include the individual's spouse. This definition includes a caregiver who is the individual's:

(a) Parent or stepparent.

(b) Sibling or stepsibling.

(c) Grandparent.

(d) Aunt, uncle, nephew, or niece.

(e) Cousin.

(f) Child or stepchild.

(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 (F) of this rule to validate payment for medicaid services.

(17) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or the subsequent eligibility re-determination date.

(C) Provider qualifications

*** DRAFT – December 13, 2010 ***

- (1) Adult family living shall be provided by an independent provider or an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of job and family services.
- (2) Adult family living shall not be provided by a county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.
- (3) An applicant seeking approval to provide adult family living shall meet the requirements of this rule and complete and submit an application and adhere to the requirements of rule 5123:2-2-01 or 5123:2-3-19 of the Administrative Code, as applicable.
- (4) Failure to comply with the requirements of this rule and rule 5123:2-2-01 of the Administrative Code or standards and assurances established under Chapter 5123:2-3 of the Administrative Code, as applicable, may result in denial, suspension, or revocation of the provider's certification or licensure.

(D) Requirements for service delivery

- (1) Adult family living shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5101:3-40-01 of the Administrative Code.
- (2) A provider of adult family living shall coordinate with the individual/guardian, family members, and designated persons, as applicable, to assist in the coordination of services.
- (3) The total number of persons with developmental disabilities living in a home in which an individual receives adult family living shall not exceed four.
- (4) A provider shall not provide both a residence and adult family living or other services to more than three persons with developmental disabilities living in a home unless the home is licensed under section 5123.19 of the Revised Code.
- (5) An independent provider of adult family living shall reside in the home where the services are delivered and that home shall be the provider's primary, legal residence.
- (6) An agency provider of adult family living shall employ or contract with another person to be the caregiver who shall reside in the home where the services are delivered and that home shall be the person's primary, legal residence. The person who is the caregiver shall be related to the individual receiving services.

*** DRAFT – December 13, 2010 ***

- (7) Except as provided in paragraphs (E) and (G) of this rule, an individual who receives supports under the individual options waiver that meet the definition of adult family living is not eligible to receive homemaker/personal care.

(E) Payment standards

- (1) The billing units, service codes, and payment rates for adult family living are contained in appendix A to this rule. Payment rates include an adjustment based on the county cost-of-doing-business category. The cost-of-doing-business categories are contained in appendix B to this rule.

- (2) Individuals who receive adult family living shall choose either to have their services paid through a daily rate or a fifteen-minute rate.

(a) Daily rate option

- (i) The daily rate shall be determined by an individual's ODDP range and the county cost-of-doing-business category. For example, if an individual is in ODDP range one and cost-of-doing-business category one, his or her daily rate is \$38.93; if an individual is in ODDP range four and cost-of-doing-business category three, his or her daily rate is \$94.16.

- (ii) An individual who chooses the daily rate option shall not receive homemaker/personal care except as provided in paragraph (E)(2)(a)(iv) of this rule.

- (iii) An individual who chooses the daily rate option may have more than one adult family living provider, however, only one provider may bill for adult family living on a given day.

- (iv) An individual who chooses the daily rate option may receive homemaker/personal care only if the services are provided on a day when the individual's adult family living provider does not bill for adult family living and either of the following apply:

- (a) The services are provided outside the family living setting by a certified homemaker/personal care provider who is not related to the individual.

- (b) The services are provided as substitute coverage in the individual's family living setting or in a community setting agreed to by the individual, by a certified homemaker/personal care provider who is not related to the individual, in circumstances where the adult family living provider is temporarily unavailable to provide services.

*** DRAFT – December 13, 2010 ***

(v) Homemaker/personal care that meets the requirements of paragraph (E)(2)(a)(iv) of this rule is not considered adult family living and is not subject to the limitation in paragraph (E)(7) of this rule.

(b) Fifteen-minute rate option

(i) The fifteen-minute rate provides flexibility to an individual who utilizes multiple adult family living providers on a regular basis or chooses to receive adult family living and homemaker/personal care on the same or different days.

(ii) Under the fifteen-minute rate, the maximum payment for adult family living and homemaker/personal care in a waiver eligibility span is subject to the limitation specified in paragraph (E)(7) of this rule.

(3) The daily rate and the fifteen-minute rate shall be adjusted to reflect the group size as specified in appendix A to this rule.

(4) The daily rate and the fifteen-minute rate shall not be billed on the same day.

(5) An individual's service and support administrator shall explain the implications of the payment options (i.e., daily rate or fifteen-minute rate) to the individual. The individual's choice of payment option shall be identified in his or her individual service plan.

(6) If an individual requests a change in his or her payment option, the individual's service and support administrator shall identify the change and its effective date in the individual service plan. The change to the individual service plan shall be made prior to implementing the change in the payment option.

(7) Except as provided in paragraph (E)(2)(a)(iv) of this rule and regardless of which payment option an individual chooses or whether a change in payment option occurs, payment of an individual's adult family living and homemaker/personal care for a waiver eligibility span shall not exceed an amount determined by multiplying the daily rate for adult family living by the number of days in the span.

(8) Paragraphs (F), (G), and (H) of rule 5123:2-9-06 of the Administrative Code do not apply to payment for adult family living.

(9) Adult family living is subject to the funding ranges and individual funding levels as set forth in paragraph (C) of rule 5123:2-9-06 of the Administrative Code.

(10) An individual who receives adult family living may request prior authorization under rule 5101:3-41-12 of the Administrative Code for waiver services other

*** DRAFT – December 13, 2010 ***

than adult family living. Prior authorization may not be requested for the purpose of increasing an adult family living provider's rate.

(11) Payment for adult family living does not include room and board.

(12) Adult family living providers shall not bill homemaker/personal care for services to individuals for whom they provide adult family living.

(13) An individual who receives adult family living may receive residential respite or community respite under the individual options waiver because of an adult family living provider's short-term absence or need for relief. Adult family living services shall not be billed during the period of time when residential respite or community respite is being provided.

(F) Documentation of services

(1) The requirements of paragraph (B) of rule 5123:2-9-05 of the Administrative Code do not apply to service documentation for adult family living.

(2) Service documentation for the adult family living daily rate shall include each of the following to validate payment for medicaid services:

(a) Date of service.

(b) Place of service.

(c) Name of individual served.

(d) Medicaid identification number of individual served.

(e) Name of provider.

(f) Provider identifier/contract number.

(g) 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.

(h) Group size.

(i) Forms that identify, for each individual served, the particular support(s) delivered as a component of adult family living as specified in the individual service plan. The forms shall be checked off and initialed by the provider for each date of service.

*** DRAFT – December 13, 2010 ***

(3) Service documentation for the adult family living fifteen-minute rate shall include the elements specified in paragraph (F)(2) of this rule and each of the following to validate payment for medicaid services:

(a) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.

(b) Times the delivered service started and stopped.

(G) Applicability and exemptions

(1) Except as provided in paragraphs (G)(2) and (G)(3) of this rule, this rule applies to any individual who receives supports under the individual options waiver that meet the definition of adult family living.

(2) Individuals who, on the effective date of this rule, are receiving homemaker/personal care under the individual options waiver that meets the definition of adult family living are not eligible to receive adult family living unless both the individual and the county board agree otherwise.

(3) This rule does not apply to an individual whose cost of adult family living is less than twenty per cent of his or her individual funding level.

Effective: XX/XX/XXXX

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

Promulgated Under: 119.03

Statutory Authority: 5111.871, 5111.873, 5123.04, 5123.045,
5123.049, 5123.16

Rule Amplifies: 5111.871, 5111.873, 5123.04, 5123.045,
5123.049, 5123.16

*** DRAFT – December 13, 2010 ***

APPENDIX A BILLING UNITS, SERVICE CODES, AND PAYMENT RATES FOR ADULT FAMILY LIVING

Adult Family Living – Daily Rate

Billing Unit: Daily

Service Code: AFL

Payment Rates: Listed below. Payment for one individual shall be at one hundred per cent of the daily rate for the range assigned by the Ohio developmental disabilities profile (ODDP) and the county cost-of-doing-business (CODB) category. Payment for a group size of two shall be at eighty-five per cent of the daily rate for the range assigned by the ODDP and the county CODB category for each individual. Payment for a group size of three shall be at seventy-five per cent of the daily rate for the range assigned by the ODDP and the county CODB category for each individual. Payment for a group size of four shall be at sixty-five per cent of the daily rate for the range assigned by the ODDP and the county CODB category for each individual.

CODB Category	ODDP Range	Daily Rate	Annualized Daily Rate
1	1	\$38.93	\$14,210.23
	2	\$92.24	\$33,669.15
	3	\$92.24	\$33,669.15
	4	\$92.24	\$33,669.15
	5	\$137.58	\$50,218.40
	6	\$137.58	\$50,218.40
	7	\$161.04	\$58,778.35
	8	\$161.04	\$58,778.35
	9	\$161.04	\$58,778.35
2	1	\$39.34	\$14,357.47
	2	\$93.20	\$34,018.02
	3	\$93.20	\$34,018.02
	4	\$93.20	\$34,018.02
	5	\$139.01	\$50,738.74
	6	\$139.01	\$50,738.74
	7	\$162.71	\$59,387.39
	8	\$162.71	\$59,387.39
	9	\$162.71	\$59,387.39

*** DRAFT – December 13, 2010 ***

CODB Category	ODDP Range	Daily Rate	Annualized Daily Rate
3	1	\$39.74	\$14,504.71
	2	\$94.16	\$34,366.89
	3	\$94.16	\$34,366.89
	4	\$94.16	\$34,366.89
	5	\$140.44	\$51,259.09
	6	\$140.44	\$51,259.09
	7	\$164.37	\$59,996.43
	8	\$164.37	\$59,996.43
	9	\$164.37	\$59,996.43
4	1	\$40.14	\$14,651.95
	2	\$95.11	\$34,715.76
	3	\$95.11	\$34,715.76
	4	\$95.11	\$34,715.76
	5	\$141.86	\$51,779.43
	6	\$141.86	\$51,779.43
	7	\$166.04	\$60,605.47
	8	\$166.04	\$60,605.47
	9	\$166.04	\$60,605.47
5	1	\$40.55	\$14,799.19
	2	\$96.07	\$35,064.62
	3	\$96.07	\$35,064.62
	4	\$96.07	\$35,064.62
	5	\$143.29	\$52,299.78
	6	\$143.29	\$52,299.78
	7	\$167.71	\$61,214.51
	8	\$167.71	\$61,214.51
	9	\$167.71	\$61,214.51
6	1	\$40.95	\$14,946.43
	2	\$97.02	\$35,413.49
	3	\$97.02	\$35,413.49
	4	\$97.02	\$35,413.49
	5	\$144.71	\$52,820.12
	6	\$144.71	\$52,820.12
	7	\$169.38	\$61,823.55
	8	\$169.38	\$61,823.55
	9	\$169.38	\$61,823.55
7	1	\$41.35	\$15,093.67
	2	\$97.98	\$35,762.36
	3	\$97.98	\$35,762.36
	4	\$97.98	\$35,762.36
	5	\$146.14	\$53,340.46
	6	\$146.14	\$53,340.46
	7	\$171.05	\$62,432.59

*** DRAFT – December 13, 2010 ***

CODB Category	ODDP Range	Daily Rate	Annualized Daily Rate
	8	\$171.05	\$62,432.59
	9	\$171.05	\$62,432.59
8	1	\$41.76	\$15,240.92
	2	\$98.93	\$36,111.22
	3	\$98.93	\$36,111.22
	4	\$98.93	\$36,111.22
	5	\$147.56	\$53,860.81
	6	\$147.56	\$53,860.81
	7	\$172.72	\$63,041.63
	8	\$172.72	\$63,041.63
	9	\$172.72	\$63,041.63

Adult Family Living – Fifteen-Minute Rate

Billing Unit: Fifteen minutes

Service Code: AFF

Payment Rates: Listed below. Based on the county cost-of-doing-business (CODB) category and number of individuals receiving services. When two or more individuals share services, the base rate for the appropriate group size is divided by the number of individuals in the group.

CODB Category	Serving 1 Individual	Serving 2 Individuals	Serving 3 Individuals	Serving 4 Individuals
1	\$3.91	\$4.18	\$4.57	\$5.08
2	\$3.95	\$4.22	\$4.62	\$5.13
3	\$3.99	\$4.27	\$4.67	\$5.19
4	\$4.03	\$4.31	\$4.71	\$5.24
5	\$4.07	\$4.35	\$4.76	\$5.29
6	\$4.11	\$4.40	\$4.81	\$5.34
7	\$4.15	\$4.44	\$4.86	\$5.40
8	\$4.19	\$4.48	\$4.90	\$5.45

*** DRAFT – December 13, 2010 ***

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

*** DRAFT – December 13, 2010 ***

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

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

*** DRAFT – December 13, 2010 ***

Category 6: Clermont
 Franklin
 Geauga
 Lake
 Lorain
 Medina
 Portage
 Summit

Category 7: Butler
 Cuyahoga
 Warren

Category 8: Hamilton