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5123:X -X-XX **Home and community-based services waivers – clinical/therapeutic intervention under the self-empowered life funding waiver.**

(A) Purpose

The purpose of this rule is to define clinical/therapeutic intervention and set forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

(B) Definitions

- (1) "Agency provider" means an entity that employs persons for the purpose of providing services
- (2) "County board" means a county board of developmental disabilities.
- (3) "Clinical/therapeutic intervention" means services that are necessary to reduce an individual's intensive behaviors and to improve the individual's independence and inclusion in his or her community and that are not otherwise available under the state medicaid program. Clinical/therapeutic intervention includes consultation activities that are provided by professionals in psychology, counseling, and behavior management. The service includes the development of a treatment/support plan, training and technical assistance to assist unpaid caregivers and/or paid support staff in carrying out the plan, delivery of the services described in the plan, and monitoring of the individual and the provider in the implementation of the plan. Clinical/therapeutic intervention may be delivered in the individual's home or in the community as described in the ISP. Clinical/therapeutic intervention must be determined necessary to reduce an individual's intensive behaviors by a functional behavioral assessment conducted by one of the following: licensed professional clinical counselor, licensed professional counselor, licensed independent social worker, or licensed social worker working under the supervision of a licensed independent social worker.
- (4) "Department" means the Ohio department of developmental disabilities.
- (5) "Family member" means a person who is related to the individual by blood, marriage, or adoption.
- (6) "GED" means general educational development, a diploma equivalent to a high school diploma issued by the Ohio department of education.
- (7) "Guardian" means a guardian appointed by the probate court under Chapter 2111. of the Revised Code. If the individual is a minor for whom no guardian has been appointed under that chapter, "guardian" means the individual's parent. If no guardian has been appointed for a minor and the minor is in the legal or

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permanent custody of a government agency or person other than the minor's natural or adoptive parent, "guardian" means that government agency or person.

- (8) "Independent provider" means a person who provides services and does not employ, either directly or through contract, anyone else to provide the services.
- (9) "Individual" means a person with a developmental disability. A guardian or non-legal representative 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.
- (10) "Individual service plan" (ISP) means the written description of services, supports, and activities to be provided to an individual.
- (11) "Non-legal representative" means a person who is freely chosen and designated in writing by an adult individual and who unless otherwise limited by the individual, has direction over the ISP, the budget, selection of residence and providers, and negotiation of payment rates for services. If the individual objects to a decision made by the non-legal representative, the individual's decision prevails. The individual may revoke the designation at any time; the revocation must be in writing. The representative may not be employed by a county board or a provider, or a contractor of either. The representative also may not be a paid provider. The ISP process, along with the involvement of the service and support administrator and support broker, will provide the mechanism for ensuring decisions are made in the best interests of the individual.
- (12) "Medicaid program" has the same meaning as in section 5111.01 of the Revised Code.
- (13) "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.
- (14) "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.

(C) Provider qualifications

- (1) Clinical/therapeutic intervention shall be provided by either of the following:
 - (a) An independent provider or an agency provider that:

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- (i) Meets the requirements of this rule;
 - (ii) Has a medicaid provider agreement with the Ohio department of job and family services; and
 - (iii) Has completed and submitted an application and adheres to the requirements of rule 5123:2-2-01 of the Administrative Code; or
- (b) An independent provider or agency provider that:
 - (i) Meets the requirements of this rule; and
 - (ii) Has contracted with a financial management services entity under contract with the state to submit claims for clinical/therapeutic intervention on the independent provider's or agency provider's behalf and that entity operates as an organized health care delivery system.
- (2) Neither a county board nor a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards shall be approved to provide clinical/therapeutic intervention.
- (3) Clinical/therapeutic intervention shall be provided by senior level specialized clinical/therapeutic interventionists, specialized clinical/therapeutic interventionists, and clinical/therapeutic interventionists who have the qualifications specified in paragraphs (C)(5), (C)(6), and (C)(7) of this rule, as applicable. A clinical/therapeutic interventionist must work under the supervision of a senior level specialized clinical/therapeutic interventionist or specialized clinical/therapeutic interventionist. In addition, if a provider of clinical/therapeutic intervention is described in paragraph (C)(1)(b) of this rule, the financial management services entity under contract with the state shall ensure that the provider meets the requirements of paragraphs [insert applicable paragraphs] of rule 5123:2-2-01 of the Administrative Code. [We are still reviewing 5123:2-2-01 to determine which requirements should apply.]
- (4) Senior level specialized clinical/therapeutic interventionists shall have a doctoral degree in psychology, education, medicine, or a related discipline and be licensed under the laws of the state to practice in their field.
- (5) Specialized clinical/therapeutic interventionists shall have a master's degree in psychology, education, or a related discipline and be licensed under the laws of the state to practice in their field and have at least three months of experience and/or training in the implementation and oversight of comprehensive interventions for individuals with developmental disabilities who need significant behaviorally focused interventions.

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(6) Clinical/therapeutic interventionists shall:

- (a) Be at least eighteen years old, have a high school diploma or GED, and have experience providing one-to-one care for an individual with developmental disabilities who needs significant behaviorally focused interventions or have undergone two initial supervised sessions of providing clinical/therapeutic intervention; or
 - (b) Be certified as an independent provider pursuant to rule 5123:2-2-01 of the Administrative Code and have experience providing one-to-one care for an individual with developmental disabilities who needs significant behaviorally focused interventions.
- (7) Failure to comply with the requirements of this rule and rule 5123:2-2-01 of the Administrative Code, as applicable, may result in denial, suspension, or revocation of the provider's certification or in the case of a provider of clinical/therapeutic intervention described in paragraph (C)(1)(b) of this rule, loss of the provider's approval to provide services under the self-empowered life funding waiver.

(D) Requirements for service delivery

- (1) Clinical/therapeutic intervention shall be provided pursuant to an ISP that conforms to the requirements of rule 5101:3-XX-XX of the Administrative Code. [Insert number of ODJFS authorization rule.]
- (2) A provider of clinical/therapeutic intervention shall coordinate with the individual/guardian, family members, and designated persons including, but not limited to, the individual's service and support administrator and support broker, as applicable, to assist in the coordination of services.

(E) Payment standards

- (1) The payment rates for clinical/therapeutic intervention provided by independent providers shall be determined by the individual and the provider subject to the minimum and maximum payment rates and billing units contained in appendix A to this rule and be identified in the individual's ISP. [We are still working on Appendix A.]
- (2) The payment rates and billing units for clinical/therapeutic intervention provided by agency providers are contained in appendix A to this rule. [We are still working on Appendix A.]
- (3) The service codes for clinical/therapeutic intervention are contained in appendix A to this rule. [We are still working on Appendix A.]

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- (3) Except for paragraphs [insert applicable paragraphs], rule 5123:2-9-06 of the Administrative Code does not apply to payment for clinical/therapeutic intervention. [We are still reviewing 5123:2-9-06 to determine which of its provisions should apply.]

(F) Documentation of services

- (1) Rule 5123:2-9-05 of the Administrative Code does not apply to service documentation for clinical/therapeutic intervention. [We are still reviewing 5123:2-9-05 to determine which of its provisions should apply.]
- (2) Service documentation for clinical/therapeutic intervention 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) Forms that identify, for each individual served, the particular support(s) delivered as a component of clinical/therapeutic intervention as specified in the individual's ISP. The forms shall be checked off and initialed by the provider for each date of service.
 - (i) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.
 - (j) Times the delivered service started and stopped.

Effective: XX/XX/XXXX

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

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