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## 5123:X -X-XX **Home and community-based services waivers – community inclusion under the self-empowered life funding waiver.**

### (A) Purpose

The purpose of this rule is to define community inclusion 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) "Community inclusion" means supports that promote an individual's full participation in his or her community, but does not include services that are otherwise available under the state medicaid program or experimental or prohibited treatments. Community inclusion includes, but is not limited to, such developmental, corrective, and other supportive services as may be required to assist an individual with a developmental disability. Community inclusion also includes opportunities and experiences that focus on socialization and/or therapeutic recreational activities as well as personal growth, peer support activities, and organization and participation in self-advocacy events. Community inclusion is comprised of the following components:
  - (a) Personal assistance in the home and/or the community with life activities;
  - (b) Transportation services including, but not limited to, fees for accessible transportation; taxi, bus, and light rail transit fares; and mileage reimbursement for up to the federal reimbursable mileage rate.
  - (c) General services and supports provided by vendors used by the general public and/or for the purpose of increasing an individual's involvement in his/her community.
- (3) "County board" means a county board of developmental disabilities.
- (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) "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

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no guardian has been appointed for a minor and the minor is in the legal or permanent custody of a government agency or person other than the minor's natural or adoptive parent, "guardian" means that government agency or person.

- (7) "Independent provider" means a person who provides services and does not employ, either directly or through contract, anyone else to provide the services.
- (8) "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.
- (9) "Individual service plan" (ISP) means the written description of services, supports, and activities to be provided to an individual.
- (10) "Medicaid program" has the same meaning as in section 5111.01 of the Revised Code.
- (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) "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.
- (13) "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) Community inclusion shall be provided by either of the following:

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- (a) An independent provider or an agency provider that:
    - (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 community inclusion on the independent provider's or agency provider's behalf and that entity operates as an organized health care delivery system.
  - (2) The qualifications of a provider of community inclusion shall be determined by the individual and identified in the individual's ISP. The qualifications that an individual establishes must not conflict with the requirements of this rule and be compatible with the generally-accepted standards for the specific component of community inclusion. A provider of community inclusion is not required to be licensed or certified or possess other professional credentials unless required by state law. In addition, if a provider of community inclusion 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.]
  - (3) 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 community inclusion.
  - (4) 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 community inclusion 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

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- (1) Community inclusion 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 community inclusion 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 community inclusion-personal assistance 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) Providers of community inclusion-transportation and community inclusion-general services and supports shall be reimbursed not more than their usual and customary charge for the service.
- (3) The billing codes for community inclusion are contained in appendix A to this rule. [We are still working on Appendix A.]
- (4) Except for paragraphs [insert applicable paragraphs], rule 5123:2-9-06 of the Administrative Code does not apply to payment for community inclusion. [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 community inclusion. [We are still reviewing 5123:2-9-05 to determine which of its provisions should apply.]
- (2) Service documentation for community inclusion-personal assistance and community inclusion-transportation 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.

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- (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 community inclusion-personal assistance or community inclusion-transportation 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.
- (3) Service documentation for community inclusion-general services and supports shall consist of a written invoice that contains the individual's name and medicaid identification number, a description of the services and/or supports provided, the provider's name, the date the services and/or supports were provided, and the provider's charge for the services and/or supports.

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