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## 5123:X -X-XX **Home and community-based services waivers – participant/family stability assistance under the self-empowered life funding waiver.**

### (A) Purpose

The purpose of this rule is to define participant/family stability assistance 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) "Counseling" includes consultation.
- (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 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) "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

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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.

(11) "Participant/family stability assistance" means training and counseling that enhance the individual's ability to direct his or her own services and/or enable an individual and/or family members who reside with the individual to understand how best to support the individual in order that the individual and his or her family members may live as much like other families as possible and to prevent or delay unwanted out-of-home placement. Participant/family stability assistance may only be utilized by the individual and family members who reside with the individual and must be outcome-based, meaning that there must be a specific goal for the service which is listed in the individual's ISP. Participant/family stability assistance includes training and counseling in the following areas:

- (a) Accommodating the individual's disability in the home;
- (b) Accessing supports offered in the community;
- (c) Effectively supporting the individual so that he or she may be fully engaged in the life of the family; and
- (d) Supporting the unique needs of the individual.

Participant/family stability assistance includes the cost of enrollment fees and materials, but does not cover travel expenses or experimental and prohibited treatments.

(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.

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(14) "Training" includes education and instruction.

(15) "Usual and customary charge" means the amount charged to other persons for the same service.

(C) Provider qualifications

(1) Participant/family stability assistance shall be provided by either of the following:

(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 participant/family stability assistance 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 participant/family stability assistance.

(3) The qualifications of a provider of participant/family stability assistance-training 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 participant/family stability assistance-training. In addition, if a provider of participant/family stability assistance-training 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.]

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- (4) Participant/family stability assistance-counseling shall be provided by a person who is licensed in accordance with the laws of the state to engage in any of the following:
  - (a) Practice of professional counseling as defined in division (A) of section 4757.01 of the Revised Code,
  - (b) Practice of social work as defined in division (C) of section 4757.01 of the Revised Code,
  - (c) Practice of marriage and family therapy as defined in division (H) of section 4757.01 of the Revised Code, or
  - (d) Practice of psychology as defined in division (B) of section 4732.01 of the Revised Code.

In addition, if a provider of participant/family stability assistance-counseling 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.]

- (5) 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 participant/family stability assistance 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) Participant/family stability assistance 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 participant/family stability assistance 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) Providers of participant/family stability assistance shall be reimbursed not more than their usual and customary charge for the service.

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- (2) The service codes for participant/family stability assistance are contained in appendix A to this rule. [We are still working on Appendix A.]
- (3) Except for paragraphs [insert applicable paragraphs], rule 5123:2-9-06 of the Administrative Code does not apply to payment for participant/family stability assistance. [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 participant/family stability assistance. [We are still reviewing 5123:2-9-05 to determine which of its provisions should apply.]
- (2) Service documentation for participant/family stability assistance 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 participant/family stability assistance 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.

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