



## OPRA Proposed Rule Change Analysis

The below charts address the substantive proposed rule changes as proposed by the Ohio Department of Developmental Disabilities. Revisions to language such as Ohio Administrative Code or Ohio Revised Code reference numbers or paragraph renumbering have been left out of the analysis.

**We are seeking input on the below rule changes. Please let us know if you think the changes will significantly impact your agency or have other feedback you would like OPRA to include in our official comments to DODD.**

<b>Rule: 5123-9-06 Home and community-based services waivers - documentation and payment for services under the individual options and level one waivers.</b>			
<b>Impacted Providers:</b> All Providers			
<b>Page; Section</b>	<b>Current Language</b>	<b>New Language</b>	<b>OPRA Comment</b>
Page 1; Definitions (B)(6)	"Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty two minutes of service delivery time. Minutes of service delivery time accrued throughout a day <u>may</u> be added together for the purpose of calculating the number of fifteen-minute billing units for the day.	"Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty two minutes of service delivery time. Minutes of service delivery time accrued throughout a day <u>shall</u> be added together for the purpose of calculating the number of fifteen-minute billing units for the day.	This should offer clarity on billing when services are provided in time periods not equal to 15 minutes. This may impact your agency if you are not currently accruing minutes of service delivery.
Page 6; (D)(1)	Under the level one waiver, payment for community respite, homemaker/personal care, informal respite, money management, participant-directed	Under the level one waiver, payment for community respite, homemaker/personal care, informal respite, money management, participant-directed homemaker/	This budget limitation is increased to accommodate for the increase in NMT, OSOC, Transportation and HPC rates.

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	homemaker/personal care, remote support, residential respite, and transportation, alone or in combination, shall not <u>exceed five thousand three hundred twenty-five</u> dollars per waiver eligibility span.	personal care, remote support, residential respite, and transportation, alone or in combination, shall not exceed <u>six thousand seven hundred fifty dollars</u> per waiver eligibility span.	
Page 14-16; Appendix A	See Attached	See Attached	The bottom and top of the funding ranges have been adjusted to account for increases brought by the increases in NMT, OSOC, Transportation, and HPC rates.



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**Rule: 5123-9-30: Home and community-based services waivers - homemaker/personal care under the individual options and level one waivers.**

**Impacted Providers:** H/PC Providers

Page; Section	Current Language	New Language	OPRA Comment
Page 1; Definitions (B)(6)	"Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty two minutes of service delivery time. Minutes of service delivery time accrued throughout a day <b>may</b> be added together for the purpose of calculating the number of fifteen-minute billing units for the day.	"Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty two minutes of service delivery time. Minutes of service delivery time accrued throughout a day <u>shall</u> be added together for the purpose of calculating the number of fifteen-minute billing units for the day.	This should offer clarity on billing when services are provided in time periods not equal to 15 minutes. This may impact your agency if you are not currently accruing minutes of service delivery.
Page 3; Definitions (B)(19)	"On-site/on-call" means a rate <b>paid</b> when no need for supervision or supports is anticipated and a provider must be <b>on-site</b> and available to provide homemaker/personal but is not required to remain awake.	"On-site/on-call" means a rate <u>authorized</u> when no need for supervision or supports is anticipated <u>because the individual is expected to be asleep for a continuous period of no less than five hours</u> , and a provider must be <u>present in the individual's residence</u> and available to provide homemaker/personal care <u>if an unanticipated need</u> arises but is not required to remain awake.	This language change is a result of the work completed by DODD's On-site, On-call Workgroup. It is meant to provide more guidance on when the on-site, on-call is an appropriate service to authorize in an ISP.

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Page 6; (D)(6)	A provider shall not bill for homemaker/personal care provided by the driver during the same time non-medical transportation is provided.	A provider shall not bill for homemaker/personal care provided by the driver during the same time non-medical transportation at <a href="#">the per-trip rate</a> is provided.	This change aligns the HPC rule with the NMT rule. This language prohibits HPC providers from billing NMT per trip. Please see the proposed NMT rule for additional guidance on how HPC providers can bill the NMT per mile rate.
Page 6; (D)(7)	N/A	<a href="#">A provider of homemaker/personal care shall arrange for substitute coverage, when necessary, only from a provider certified or approved by the department and as identified in the individual service plan; notify the individual or legally responsible persons in the event that substitute coverage is necessary; and notify the person identified in the individual service plan when substitute coverage is not available to allow such person to take other arrangements.</a>	This is not a new requirement, this language is in the current version of the provider certification.  <b>Question-</b> do you find it necessary to have this language in both rules?
Page 6; (D)(8)	N/A	<a href="#">A provider of routine homemaker/personal care delivered in fifteen-minute billing units shall utilize electronic visit verification in accordance with rule 5160-1-40 of the Administrative Code.</a>	This is a new requirement of the rule. The addition aligns DODD's rule with the Ohio Department of Medicaid's requirement that EVV be implemented in certain DODD-administered services.
Page 7; (F)(1)	The billing units, service codes, and payment rates for homemaker/personal care are contained in appendix A to this rule. Payment rates are based on the county cost-of-doing- business category. The cost-of-doing-	The billing units, service codes, and payment rates for homemaker/personal care are contained in appendix A to this rule. Payment rates are based on the county cost-of-doing-business category. The cost-of-doing-	This language assures rates paid to independent providers are at least minimum wage. This addition does not impact rates paid to agency providers.

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	business category for an individual is the category assigned to the county in which the service is actually provided for the preponderance of time. The cost-of-doing-business categories are contained in appendix B to this rule.	business category for an individual is the category assigned to the county in which the service is actually provided for the preponderance of time. The cost-of-doing-business categories are contained in appendix B to this rule. <a href="#">The department may cause independent providers to be paid a rate that exceeds the payment rates contained in appendix A to this rule as necessary to comply with increases to minimum wage pursuant to Section 34a of Article II, Ohio Constitution.</a>	
Page 12; (F)(11)	The team shall assess and document in the individual service plan when on-site/on-call may be appropriate.	The team shall <a href="#">use a department-approved tool</a> to assess and document in the individual service plan when on-site/on-call may be appropriate.	This is meant to standardize how on-site, on-call is authorized across counties and to ensure that the authorization is an appropriate service to meet the needs of the individual. This assessment is currently being piloted.
Page 12; (F)(11)(b)(ii)- (F)(11)(b)(iii)	(ii) The individual is asleep and requires staff to be available to provide homemaker/personal care; and (iii) The needs of the individual require staff to be on-site but not to remain awake;	N/A	This language was removed from this section and is now addressed in paragraph (B)(19).
Page 12; (F)(11)(c)	A provider shall be paid the routine homemaker/personal care rate instead of the on-site/on-call rate when an individual receives supervision or supports <a href="#">during the night</a> . In these instances, the	<a href="#">During an authorized on-site/on-call period</a> , a provider shall be paid the routine homemaker/personal care rate instead of the on-site/on-call rate <a href="#">for a period of time</a> when an individual receives supervision or	This change eliminates the need for OSOC to be provided at night.  <b>Question:</b> how might this change in language impact your agency, if at all?



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	provider shall document the date and beginning and ending times during which supervision or supports were provided to the individual.	supports. In these instances, the provider shall document the date and beginning and ending times during which supervision or supports were provided to the individual.	
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Please see the attached draft HPC rule for a full breakdown of the change in rates. Rates will begin on page 14 in the Appendix A of the rule.

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**Rule: 5123-9-32 Home and community-based services waivers - participant-directed homemaker/personal care under the individual options, level one, and self-empowered life funding waivers.**

**Impacted Providers:** H/PC Providers

Page; Section	Current Language	New Language	OPRA Comment
Page 2; Definitions (B)(6)	"Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty two minutes of service delivery time. Minutes of service delivery time accrued throughout a day <u>may</u> be added together for the purpose of calculating the number of fifteen-minute billing units for the day.	"Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty two minutes of service delivery time. Minutes of service delivery time accrued throughout a day <u>shall</u> be added together for the purpose of calculating the number of fifteen-minute billing units for the day.	This should offer clarity on billing when services are provided in time periods not equal to 15 minutes. This may impact your agency if you are not currently accruing minutes of service delivery.
Page 3; Definitions (B)(20)	"On-site/on-call" means a rate <u>paid</u> when no need for supervision or supports is anticipated and a provider must be <u>on-site</u> and available to provide homemaker/personal but is not required to remain awake.	"On-site/on-call" means a rate <u>authorized</u> when no need for supervision or supports is anticipated <u>because the individual is expected to be asleep for a continuous period of no less than five hours</u> , and a provider must be <u>present in the individual's residence</u> and available to provide homemaker/personal care <u>if an</u>	This language change is a result of the work completed by DODD's On-site, On-call Workgroup. It is meant to provide more guidance on when the on-site, on-call is appropriate to be authorized in the plan.

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		<u>unanticipated need</u> arises but is not required to remain awake.	
Page 6; (D)(8)	A provider shall not bill for homemaker/personal care provided by the driver during the same time non-medical transportation is provided.	A provider shall not bill for homemaker/personal care provided by the driver during the same time non-medical transportation <u>at the per-trip rate</u> is provided.	This change aligns the HPC rule with the NMT rule. This language prohibits HPC providers from billing NMT per trip. Please see the proposed NMT rule for additional guidance on how HPC providers can bill the NMT per mile rate.
Page 7; (D)(10)	N/A	<u>A provider of homemaker/personal care shall arrange for substitute coverage, when necessary, only from a provider certified or approved by the department and as identified in the individual service plan; notify the individual or legally responsible persons in the event that substitute coverage is necessary; and notify the person identified in the individual service plan when substitute coverage is not available to allow such person to take other arrangements.</u>	This is not a new requirement, this language is in the current version of the provider certification.  <b>Question-</b> do you find it necessary to have this language in both rules?
Page 10; (F)(7)	The team shall assess and document in the individual service plan when on-site/on-call may be appropriate.	The team shall <u>use a department-approved tool</u> to assess and document in the individual service plan when on-site/on-call may be appropriate.	This is meant to standardize how on-site, on-call is authorized across counties and to ensure that the authorization is an appropriate service to meet the needs of the individual. This assessment is currently being piloted.
Page 12; (F)(7)(b)(ii)- (F)(11)(b)(iii)	(ii) The individual is asleep and requires staff to be available to provide homemaker/personal care; and (iii) The needs of the individual require staff to be on-site but not to remain awake;	N/A	This language was removed from this section and is now addressed in paragraph (B)(20).



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Page 12; (F)(7)(c)	A provider shall be paid the routine homemaker/personal care rate instead of the on-site/on-call rate when an individual receives supervision or supports <u>during the night</u> . In these instances, the provider shall document the date and beginning and ending times during which supervision or supports were provided to the individual.	<u>During an authorized on-site/on-call period</u> , a provider shall be paid the routine homemaker/personal care rate instead of the on-site/on-call rate <u>for a period of time</u> when an individual receives supervision or supports. In these instances, the provider shall document the date and beginning and ending times during which supervision or supports were provided to the individual.	This change eliminates the need for OSOC to be provided at night.  Question: how might this change in language impact your agency, if at all?
Page 12; Appendix A	Participant-Directed Homemaker/Personal Care (Routine) - <b>Common Law Employee</b> - Payment Rate: Negotiable from the equivalent of minimum wage to the maximum rate of <u>\$4.49</u> . When rate modifications apply, the payment rate is negotiable from the equivalent of minimum wage to the maximum rate of <u>\$4.49</u> plus applicable rate modifications.	Participant-Directed Homemaker/Personal Care (Routine) - <b>Common Law Employee</b> - Payment Rate: Negotiable from the equivalent of minimum wage to the maximum rate of <u>\$5.17</u> . When rate modifications apply, the payment rate is negotiable from the equivalent of minimum wage to the maximum rate of <u>\$5.17</u> plus applicable rate modifications.	This increase is a result of the state budget.
Page 12; Appendix A	Participant-Directed Homemaker/Personal Care (Routine) - <b>Agency With Choice</b> - Payment Rate: Serving 1 Individual: <u>\$4.91</u> Serving 2 Individuals: <u>\$3.68</u> Serving 3 Individuals: <u>\$3.68</u>	Participant-Directed Homemaker/Personal Care (Routine) - <b>Agency With Choice</b> - Payment Rate: Serving 1 Individual: <u>\$5.87</u> Serving 2 Individuals: <u>\$4.40</u> Serving 3 Individuals: <u>\$4.40</u>	This increase is a result of the state budget.



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Rule: 5123-9-19: Home and community-based services waivers – general requirements for adult day support, career planning, group employment support, individual employment support, non-medical transportation, and vocational habilitation						
Impacted Providers: All day service providers						
Page; Section	Current Budget Limitations		New Budget Limitations			OPRA Comment
Page 12; Appendix B	CODB	Old Limitation	CODB	New Limitation	% Change	The only significant change in this rule is the 6% increase in the budget limitations available for all of the day services. This is to accommodate the expected increase in in NMT usage (based on an estimated \$1,000 miles of per mile, per plan year, for each individual). There is no substantive change in the rule language.
	1	\$9,740	1	\$10,320	+6%	
	2	\$9,844	2	\$10,424	+6%	
	3	\$9,943	3	\$10,523	+6%	
	4	\$10,042	4	\$10,622	+6%	
	5	\$10,146	5	\$10,726	+6%	
	6	\$10,244	6	\$10,824	+6%	
	7	\$10,348	7	\$10,928	+6%	
	8	\$10,447	8	\$11,027	+6%	



## OPRA Proposed Rule Change Analysis

**Rule: 5123-9-18: Home and community-based services waivers – nonmedical transportation under the individual options, level one, and self-empowered life funding waivers**

**Impacted Providers:** All day service providers

Page; Section	Current Language	Proposed Language	OPRA Comment
Page 2; Definitions (B)(16) (current version); (B)(15) (proposed version)	"Modified vehicle" means a motor vehicle that has been designed, constructed, or fabricated and equipped to be used upon public streets and/or highways for transportation of individuals who require use of a wheelchair.	(15) "Modified vehicle" means: (a) A motor vehicle that has been structurally modified in a permanent manner to be used upon public streets and highways for transportation of individuals <u>whose physical or behavioral needs require use of a transfer aid;</u> or (b) A motor vehicle that has been designed, constructed, or fabricated and equipped to be used upon public streets and highways for transportation of individuals who require use of a wheelchair and that shall: <u>** (i) Have permanent fasteners to secure a wheelchair to the floor or side of the vehicle to prevent wheelchair movement;</u> <u>(ii) Have safety harnesses or belts in the vehicle for the purpose of securing individuals in wheelchairs;</u> <u>(iii) Be equipped with a stable access ramp specifically designed for wheelchairs or a hydraulic lift specifically designed for wheelchairs;</u> <u>and</u> <u>(iv) On each day the vehicle is used to provide non-medical transportation, be inspected and tested by the first driver of the vehicle to ensure the permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lift are working prior to transporting an individual in a wheelchair. The daily inspection shall be documented by the driver that conducts the inspection.</u>	This allows providers to bill for the modified vehicle per mile rate when using vehicles that have been permanently modified in ways other than traditional wheelchair lifts and tie downs. For example, individuals who require vehicles with swivel seats to get in and out of the vehicle or individuals who require Plexiglas that is bolted down due to behavioral challenges.  **Section (B)(15)(b) of the proposed language is not a change in requirement. The current rule has these requirements listed in section (E)(1)(b). **
	"Non-medical transportation" means transportation <u>that is used by individuals enrolled in</u>	"Non-medical transportation" means transportation <u>used by an individual to get to, from, between, or among:</u> (a) A place of employment;	This change allows NMT to be used for a larger variety of activities.

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	<p><u>individual options, level one, and self-empowered life funding waivers</u> to get to <u>and/or</u> from a place of employment or to access adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation.</p> <p><b>**The current definition of non-medical transportation has many provisions that will remain a part of the proposed rule but have been moved other sections in the proposed rule**</b></p>	<p>(b) A location where adult day support, career planning, group employment support, individual employment support, or vocational habilitation is provided to the individual;</p> <p><u>(c) A volunteer activity;</u></p> <p><u>(d) A post-secondary educational program;</u></p> <p><u>(e) An internship or practicum; and/or</u></p> <p>(f) A drop-off or transfer location from which the individual is then transported to or from one of the places specified in paragraphs (B)(16)(a) to (B)(16)(e) of this rule.</p>	
Page 4; Definitions (B)(23)	N/A	<p><u>"Volunteer activity" means an activity performed by an individual for which the individual receives no payment.</u></p>	
Page 6; Provider Qualifications (C)(5)(e)	Complete testing for controlled substances by a laboratory certified for such testing and be determined to be drug free prior to initially providing nonmedical transportation.	<p>N/A</p> <p>This requirement has been removed</p>	No issues noted, but some insurance companies used by providers may still require drug testing prior service provision.

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<p>Page 7; (D)</p>	<p><u>General requirements for service delivery</u></p>	<p><u>Meeting an individual's needs for nonmedical transportation</u></p> <p>(1) There are three modes of non-medical transportation:</p> <ul style="list-style-type: none"> <li>(a) Non-medical transportation at the per-trip rate;</li> <li>(b) Non-medical transportation at the per-mile rate; and</li> <li>(c) Non-medical transportation provided by operators of commercial vehicles at the usual and customary fare.</li> </ul> <p><u>(2) An individual's non-medical transportation needs may be met through a combination of non-medical transportation at the per-trip rate, non-medical transportation at the per-mile rate, and/or non-medical transportation provided by operators of commercial vehicles at the usual and customary fare.</u></p>	<p>This change was initiated by the need to clarify the ability for an individual to receive a combination of NMT transportation modes in a single day.</p> <p><b>Question:</b> If members agree, we would like to suggest that DODD add the following language:</p> <p>“Non-medical transportation at the per-trip rate is primarily to be used to get to and from the beginning and ending of:</p> <ul style="list-style-type: none"> <li>(a) A location where adult day support, career planning, group employment support, individual employment support, or vocational habilitation is provided to the individual;</li> <li>(b) A volunteer activity;</li> <li>(c) A post-secondary educational program;</li> <li>(d) An internship or practicum; and/or</li> <li>(e) A drop-off or transfer location from which the individual is then transported</li> </ul>
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			<p>to or from one of the places specified in paragraphs (B)(16)(a) to (B)(16)(e) of this rule.;</p> <p>Non-medical transportation at the per-mile rate is primarily to be used to get to different locations in the community while receiving adult day support, career planning, group employment support, individual employment support, or vocational habilitation “</p>
<p>Page 7; General Requirements for Service Delivery/Meeting an Individual's Needs for NMT (D)(3)</p>	<p>Non-medical transportation shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code. The individual service plan shall indicate whether non-medical transportation is to be provided in a modified vehicle <u>or a non-modified vehicle, at the per-trip or per-mile rate, and/or by operators of commercial vehicles</u></p>	<p>Non-medical transportation shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code. The individual service plan shall indicate whether <u>an individual requires</u> non-medical transportation is to be provided in a modified vehicle</p>	<p><b>Question:</b> Do we need to request language that clarifies what should happen when the ISP team disagrees about the need for a modified vehicle?</p>

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<p>Current Rule – Page 3; Definitions (B)(17)(d)</p> <p>Proposed Rule – Page 7; Meeting an Individual’s Needs for NMT (D)(5)</p>	<p>Nothing in this rule shall be interpreted to prohibit a provider of homemaker/personal care from transporting an individual to and/or from <u>the individual's place of employment or the site where adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation are provided</u> and billing for homemaker/personal care <u>and transportation</u> in accordance with rules 5123:2-9-30 and 5123:2-9-24 of the Administrative Code.</p>	<p>Nothing in this rule shall be interpreted to prohibit a provider of homemaker/personal care <u>or participant-directed homemaker/personal care</u> from transporting an individual to, from, <u>between, or among the venues described in paragraph (B)(16) of this rule</u> and billing for homemaker/personal care in accordance with rule 5123-9-30 <u>of the Administrative Code or participant-directed homemaker/personal care in accordance with rule 5123-9-32 of the Administrative Code and</u> transportation in accordance with rule 5123-9-24 of the Administrative Code.</p>	<p><b>The OPRA team suggests clarification from DODD on this revision.</b></p>
<p>Current Rule – Page 6; General Requirements for Service Delivery (D)(3)-(D)(4)</p> <p>Proposed Rule – Page 8; Requirements for service delivery of non-medical</p>	<p><u>(3) A vehicle used for non-medical transportation shall be equipped with:</u> (a) Secure storage space for removable equipment and passenger property; (b) A communication system, that may include cellular communication, capable of two-way communication; and</p>	<p><u>(E) Requirements for service delivery of non-medical transportation</u> <u>(1) Drivers of vehicles used for non-medical transportation at the per-trip rate or nonmedical transportation at the per-mile rate</u> shall comply with federal, state, and local laws and regulations. <u>(2) When a modified vehicle or a vehicle equipped to transport five or more passengers is used for non-medical transportation at the per-trip rate or nonmedical transportation at the per-mile rate, the vehicle shall:</u> <u>(a) Be equipped with:</u> (i) Secure storage space for removable equipment and passenger property;</p>	<p>The proposed rule requires secured storage space, communication system, fire extinguisher, first-aid kit, daily and annual vehicle inspections for vehicles equipped to carry 5 or more passengers. In the past we have advocated to change this to 7 or more passengers to be in line with the PUCO definition of a Commercial</p>

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<p>transportation (E)</p>	<p>(c) A fire extinguisher and an emergency first-aid kit that are safely secured. <u>(4) On each day a vehicle is used to provide non-medical transportation, the first driver of the vehicle shall conduct and document inspection and testing of the lights, windshield washer/wipers, emergency equipment, mirrors, horn, tires, and brakes prior to transporting an individual.</u> (5) A vehicle used for non-medical transportation shall, at a frequency of at least once every twelve months, be inspected by the Ohio state highway patrol safety inspection unit or a certified mechanic and be determined to be in good working condition. (6) Drivers shall comply with federal, state, and local laws and regulations.</p>	<p>(ii) A communication system, which may include cellular communication, capable of two-way communication; and (iii) A fire extinguisher and an emergency first-aid kit that are safely secured. (b) Be inspected and tested, on each day the vehicle is used to provide nonmedical transportation, by the first driver of the vehicle and prior to transporting an individual, to ensure the lights, windshield washer/wipers, emergency equipment, mirrors, horn, tires, and brakes are working. The daily inspection shall be documented by the driver that conducts the inspection. (c) Be inspected and determined to be in good working condition at a frequency of at least once every twelve months by the Ohio state highway patrol safety inspection unit <u>or by a mechanic certified by an automotive dealership or the national institute for automotive service excellence.</u></p>	<p>Motor Vehicle. Is there still value and justification in advocating to change to 7? PUCO rules include the following:</p> <ul style="list-style-type: none"> <li>On each day a vehicle (commercial or non-commercial) is used to provide non-medical transportation, the first driver of the vehicle shall conduct and document inspection and testing of the lights, windshield wipers, emergency equipment, mirrors, horns, tires and brakes prior to transporting an individual. <i>O.A.C. 5123:2-9-18(D)(4)-(D)(5).</i></li> <li>At least every 12 months, the vehicle shall be inspected by the Ohio State Highway Patrol safety inspection unit or a certified mechanic and be determined to</li> </ul>
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			<p>be in good working condition. Proof of inspection should be kept in the vehicle.</p> <p><b>Question:</b> Many of these safety requirements are not included in the proposed HPC transportation language. We are seeking input feedback from the Membership on this inconsistency.</p>
Page 9; Requirements for service delivery of non-medical transportation at the per-trip Rate (F)(1)(a)	<p><u>(1) Non-medical transportation at the per-trip rate shall be provided in:</u></p> <p><u>(a) A vehicle with a passenger capacity of nine or more that is not a modified vehicle;</u></p>	N/A	There is no longer a requirement that a provider be transporting individuals in a large van or modified vehicle to bill the NMT per trip rate. The NMT per trip rate can now be billed while using smaller and non-modified vehicles.
Proposed rule pgs. 8 and 10	A provider <u>shall not bill</u> for adult day support, career planning, group employment support, individual employment support, or vocational habilitation during the same time non-medical transportation is provided.	A provider <u>may bill</u> for adult day support, career planning, group employment support, individual employment support, <u>or</u> vocational habilitation during the same time non-medical transportation <u>at the per-mile rate</u> is provided.	No issues noted. This will allow for provider to bill when taking individuals out into the community during programming.

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Proposed rule pgs. 8 and 10	A provider <u>shall not bill for community inclusion or</u> homemaker/personal care provided by the driver during the same time non-medical transportation is provided	A provider <u>may bill for</u> homemaker/personal care <u>or participant-directed homemaker/personal care</u> provided by the driver during the same time nonmedical transportation <u>at the per-mile rate</u> is provided. A provider shall not bill for homemaker/personal care <u>or participant-directed homemaker/personal care</u> provided by the driver during the same time nonmedical transportation <u>at the per-trip rate</u> is provided.	<b>The OPRA team suggests further clarification from DODD.</b>  This language state that providers can bill NMT per mile rate and HPC at the same time. How will the SSAs and providers know when to bill NMT per mile vs transportation per mile rate? Will this be a team decision? Will guidance be and training be done to address this? Are there any potential/unintended impacts on individuals' budgets and billing due to funding silos? Will HPC providers need to be certified in NMT to bill for the NMT per mile rate?
Page 10; Requirements for service delivery of non-medical transportation at the per-trip Rate (E)(3) of current rule	<u>Each driver shall provide a form, completed and signed by a person who is licensed, certified, and/or registered in accordance with Ohio law to perform physical examinations, establishing the driver's physical qualification to provide non-medical transportation. A person</u>	N/A  This requirement has been removed	<b>Question:</b> Do you feel comfortable with the removal of this language knowing that PUCO still requires a physical?  <b>PUCO requirement:</b> for vehicles with 7 or more passengers of vehicles with a gross vehicle weight rating

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	<u>employed by an agency provider as a driver prior to January 1, 2007 is not required to meet the requirements of this paragraph when the agency provider maintains verification that a physical examination was completed at the time of the person's hire.</u>		that is 10,001 pounds or more: Drivers of CMVs need to have a special medical exam by a specially licensed medical examiner as defined in 49 C.F.R. 390.5. The medical examination is required at least every 24 months, and the medical examiners that are licensed to perform this exam are listed on the National Registry of Certified Medical examiners website which is administered by the U.S. Department of Transportation. (USDOT). 49 C.F.R. 391.41.
Page 10; Requirements for service delivery of non-medical transportation at the per-mile Rate; (F)(1) of current rule	<u>Non-medical transportation at the per-mile rate shall be provided in a vehicle with a passenger capacity of eight or fewer that is not a modified vehicle.</u>	N/A  This requirement has been removed	No issues noted
Page 10; Requirements for service delivery of non-medical transportation at the per-mile	(F)(2) Individuals shall be in the vehicle during the times the provider bills the per-mile rate except that billing may occur when	(G)(1) Individuals shall be in the vehicle during the times the provider bills <u>nonmedical transportation at</u> the per-mile rate except that billing may occur when non-medical transportation is being provided on behalf of an individual who is receiving <u>individual employment support or the job development</u> , or worksite accessibility <u>components of career planning</u> .	No issues noted

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Rate; Section F in current rule and section (G) of the proposed rule	non-medical transportation is being provided on behalf of an individual who is receiving <u>job coaching</u> , job development, or worksite accessibility		
Proposed rule pgs 10 and 13	<p><u>Calculation of the per-mile payment rate for a commute ensures that each passenger in the vehicle shares equally in the total cost of the commute.</u></p> <p><u>(a) Passengers include individuals enrolled in waivers and individuals who are not enrolled in waivers for purposes of determining the number of individuals in the vehicle during the commute.</u></p> <p><u>(b) The number of miles for each commute is calculated from the point where the first individual who is enrolled in an individual options, level one self-empowered life funding waiver riding in the vehicle is picked up and the point where the</u></p>	<p><u>Payment rates for non-medical transportation at the per-mile rate are established on a per-person basis, depending on the number of individuals being transported, regardless of funding source, and whether the service is provided in a modified vehicle or in a non-modified vehicle. The modified vehicle rate shall be applied for each individual being transported when at least one individual requires the use of a modified vehicle, as specified in his or her individual service plan.</u></p>	No issues noted for providers. Not sure how this will work for SSAs and budgeting.

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	<u>last individual who is enrolled in an individual options, level one, or self-empowered life funding waiver in the same vehicle is dropped off at his or her destination.</u>		
Proposed rule pg. 11	<u>Operators of commercial vehicles that provide non-medical transportation are not subject to the requirements set forth in paragraphs (D)(3), (D)(4), and (D)(5) of this rule.</u>	N/A  This requirement has been removed	No issues noted
Page 11; Documentation of Services; Section I	Documentation of services....	Documentation of services.... <u>(c) Type of vehicle (i.e., modified vehicle or non-modified vehicle) used to provide service...</u>	No issues noted for per mile trips.
Proposed rule pg. 11 and 12	<u>Number of miles in each distinct trip and/or commute, as indicated by recording beginning and ending odometer readings.</u>	<u>Service documentation for non-medical transportation at the per-mile rate shall include, in addition to the items required in paragraph (I)(1) of this rule, the number of miles in each distinct commute, as indicated by recording beginning and ending odometer readings or via tracking or mapping by a global positioning system.</u>	No issues noted. Eliminates requirement to track miles for per-trip and allows for GPS tracking for per mile.
Proposed rule pg. 12	Payment rates for non-medical transportation at the per-trip rate <u>and non-medical transportation at the per-mile rate are based on</u> the county cost-	Payment rates for non-medical transportation at the per-trip rate <u>are established on a per-person basis, irrespective of the number of individuals being transported simultaneously, and based on</u> the county cost-of-doing-business category for the county in which the preponderance of service was	No issues noted.

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	<p>of-doing-business category for the county in which the preponderance of service was provided. The cost-of- doing business categories are contained in appendix B to this rule.</p>	<p>provided. The cost-of-doing business categories are contained in appendix B to this rule.</p>													
Appendix A	<p>Payment Rates: Listed below. The rates are established on a per person basis depending on the group size in which transportation is provided. When more than one individual is receiving transportation, the number of individuals in the group shall be determined by totaling the number of individuals, regardless of funding source, for whom transportation is being provided.</p> <p>Serving 1 Individual- \$ 0.45 per person Serving 2 or 3 Individuals- \$ 0.23 per person Serving 4 or More Individuals- \$ 0.17 per person</p>	<p>Payment Rates: Listed below. Rates are established on a per-person basis, depending on the number of individuals being transported, regardless of funding source, and whether the service is provided in a modified vehicle or in a non-modified vehicle. Multiply the appropriate rate by the number of miles to determine the per-person amount to be billed to the waiver.</p> <table> <tr> <th></th><th>1 Individual</th><th>2 or 3 Individuals</th><th>4 or More Individuals</th></tr> <tr> <td>Modified Vehicle</td><td>\$1.00 per person</td><td>\$0.5 per person</td><td>\$0.38 per person</td></tr> <tr> <td>Non-Modified Vehicle</td><td>\$0.58 per person</td><td>\$0.29 per person</td><td>\$0.22 per person</td></tr> </table>		1 Individual	2 or 3 Individuals	4 or More Individuals	Modified Vehicle	\$1.00 per person	\$0.5 per person	\$0.38 per person	Non-Modified Vehicle	\$0.58 per person	\$0.29 per person	\$0.22 per person	Per trip rates do not change.
	1 Individual	2 or 3 Individuals	4 or More Individuals												
Modified Vehicle	\$1.00 per person	\$0.5 per person	\$0.38 per person												
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## OPRA Proposed Rule Change Analysis

**Rule: 5123-9-24 Home and community-based services waivers - transportation under the individual options, level one, and self-empowered life funding waivers.**

**Impacted Providers:** HPC providers

Page; Section	Current Language	New Language	OPRA Comment
Page 1; (B)(7)	N/A	<p><u>"Modified vehicle" means:</u></p> <p><u>(a) A motor vehicle that has been structurally modified in a permanent manner to be used upon public streets and highways for transportation of individuals whose physical or behavioral needs require use of a transfer aid;</u></p> <p><u>or</u></p> <p><u>(b) A motor vehicle that has been designed, constructed, or fabricated and equipped to be used upon public streets and highways for transportation of individuals who require use of a wheelchair and that shall:</u></p> <p><u>** (i) Have permanent fasteners to secure a wheelchair to the floor or side of the vehicle to prevent wheelchair movement;</u></p> <p><u>(ii) Have safety harnesses or belts in the vehicle for the purpose of securing individuals in wheelchairs;</u></p> <p><u>(iii) Be equipped with a stable access ramp specifically designed for wheelchairs or a hydraulic lift specifically designed for wheelchairs; and</u></p> <p><u>(iv) On each day the vehicle is used to provide non-medical transportation, be inspected and tested by the first driver of the vehicle to ensure the permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lift are working prior to transporting an individual in a wheelchair. The daily inspection shall be documented by the driver that conducts the inspection.</u></p>	<p>This allows providers to bill for the modified vehicle per mile rate when using vehicles that have been permanently modified in ways other than traditional wheelchair lifts and tie downs. For example, individuals who require vehicles with swivel seats to get in and out of the vehicle or individuals who require Plexiglas that is bolted down due to behavioral challenges.</p>

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Page 3; (D)(1)	Transportation shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code.	Transportation shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123:2-1-11 of the Administrative Code. <u>The individual service plan shall indicate whether an individual requires transportation to be provided in a modified vehicle.</u>	<b>Question:</b> Do we need to request language that clarifies what should happen when the ISP team disagrees about the need for a modified vehicle?
Page 4; (E)(3)	N/A	<u>Type of vehicle (i.e., modified vehicle or non-modified vehicle) used to provide service.</u>	This aligns documentation requirements with NMT and validates billing at the modified vehicle rate.
Page 4; (E)(4)	N/A	<u>License plate number of vehicle used to provide service.</u>	This aligns documentation requirements with NMT.
Page 4; (F)(2)	Payment rates are established on a per person basis, depending on the group size in which transportation is provided. When more than one individual is receiving transportation, the number of individuals in the group shall be determined by totaling the number of individuals, regardless of funding source, for whom transportation is being provided.	Payment rates for <u>transportation</u> are established on a per-person basis, depending on the number of individuals being transported, regardless of funding source, <u>and whether the service is provided in a modified vehicle or in a non-modified vehicle. The modified vehicle rate shall be applied for each individual being transported when at least one individual requires the use of a modified vehicle, as specified in his or her individual service plan.</u>	No issues noted for providers. Not sure how this will work for SSAs and budgeting.
Page 6; Appendix	N/A	Service Codes for Per-Mile Transportation Provided in a Modified Vehicle: Individual Options Waiver: ATO Level One Waiver: FTO Self-Empowered Life Funding Waiver: STO	These changes are will enable you to bill for transportation provided in a modified vehicle. Billing and corresponding documentation or software may need to be updated to include the new codes.



## OPRA Proposed Rule Change Analysis

<p>Page 6 and 7; Appendix</p>	<p>Payment Rates: Listed below. The rates are established on a per person basis depending on the group size in which transportation is provided. When more than one individual is receiving transportation, the number of individuals in the group shall be determined by totaling the number of individuals, regardless of funding source, for whom transportation is being provided.</p> <p>Serving 1 Individual- \$ 0.45 per person Serving 2 or 3 Individuals- \$ 0.23 per person Serving 4 or More Individuals- \$ 0.17 per person</p>	<p>Payment Rates: Listed below. Rates are established on a per-person basis, depending on the number of individuals being transported, regardless of funding source, and whether the service is provided in a modified vehicle or in a non-modified vehicle. Multiply the appropriate rate by the number of miles to determine the per-person amount to be billed to the waiver.</p> <table data-bbox="814 537 1587 821"> <thead> <tr> <th></th><th>1 Individual</th><th>2 or 3 Individuals</th><th>4 or More Individuals</th></tr> </thead> <tbody> <tr> <td>Modified Vehicle</td><td>\$1.00 per person</td><td>\$0.5 per person</td><td>\$0.38 per person</td></tr> <tr> <td>Non-Modified Vehicle</td><td>\$0.58 per person</td><td>\$0.29 per person</td><td>\$0.22 per person</td></tr> </tbody> </table>		1 Individual	2 or 3 Individuals	4 or More Individuals	Modified Vehicle	\$1.00 per person	\$0.5 per person	\$0.38 per person	Non-Modified Vehicle	\$0.58 per person	\$0.29 per person	\$0.22 per person	
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## OPRA Proposed Rule Change Analysis

<b>Rule: 5123-9-18: 5123-9-40 Home and community-based services waivers - administration of the self-empowered life funding waiver</b>			
<b>Impacted Providers:</b> Providers with individuals using the SELF Waiver			
<b>Page; Section</b>	<b>Current Language</b>	<b>New Language</b>	<b>OPRA Comment</b>
Page 8; (I)(1)(a) and (b)	(a) Adult -- <u>forty</u> thousand dollars per waiver eligibility span. (b) Child -- <u>twenty-five</u> thousand dollars per waiver eligibility span.	(a) Adult -- <u>forty-five</u> thousand dollars per waiver eligibility span. (b) Child -- <u>thirty</u> thousand dollars per waiver eligibility span.	Budget limitations are increased to account for increased HPC, OSOC, transportation and NMT rates.