

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.

Rule: 5123-9-06 Home and community-based services waivers - documentation and payment for services under the individual options and level on waivers.						
Impacted Provide	rs : All 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 <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</u> <u>thousand three hundred twenty-</u> <u>five</u> dollars per waiver eligibility span.	personal care, remote support, residential respite, and transportation, alone or in combination, shall not exceed <u>six</u> <u>thousand seven hundred fifty</u> <u>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.



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



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



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



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	provider shall document the date	supports. In these instances, the	
	and beginning and ending times	provider shall document the date	
	during which supervision or	and beginning and ending times	
	supports were provided to the	during which supervision or	
	individual.	supports were provided to the	
		individual.	

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.



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



• • • •	•	unanticipated need arises but is not	
		required to remain awake.	
P_{2}	A provider shall not hill for		This shange aligns the HPC rule with the NMT rule
Page 6; (D)(8)	A provider shall not bill for	A provider shall not bill for	This change aligns the HPC rule with the NMT rule.
	homemaker/personal care provided	homemaker/personal care provided	This language prohibits HPC providers from billing
	by the driver during the same time	by the driver during the same time	NMT per trip. Please see the proposed NMT rule for
	non-medical transportation is	non-medical transportation <u>at the</u>	additional guidance on how HPC providers can bill
	provided.	per-trip rate is provided.	the NMT per mile rate.
Page 7; (D)(10)	N/A	A provider of homemaker/personal	This is not a new requirement, this language is in the
		care shall arrange for substitute	current version of the provider certification.
		coverage, when necessary, only	
		from a provider certified or	Question- do you find it necessary to have this
		approved by the department and as	language in both rules?
		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.	
Page 10; (F)(7)	The team shall assess and	The team shall use a department-	This is meant to standardize how on-site, on-call is
	document in the individual service	approved tool to assess and	authorized across counties and to ensure that the
	plan when on-site/on-call may be	document in the individual service	authorization is an appropriate service to meet the
	appropriate.	plan when on-site/on-call may be	needs of the individual. This assessment is currently
		appropriate.	being piloted.
Page 12;	(ii) The individual is asleep and	N/A	This language was removed from this section and is
(F)(7)(b)(ii)-	requires staff to be available to		now addressed in paragraph (B)(20).
(F)(11)(b)(iii)	provide homemaker/personal care;		
	and		
	(iii) The needs of the individual		
	require staff to be on-site but not to		
	remain awake;		



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



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 Provid	mpacted Providers: All day service providers						
Page; Section	Current Bu	udget Limitations	New Budg	et Limitations		OPRA Comment	
Page 12; Appendix B	CODB 1 2 3 4 5 6 7 8	Old Limitation \$9,740 \$9,844 \$9,943 \$10,042 \$10,146 \$10,244 \$10,348 \$10,447	CODB 1 2 3 4 5 6 7 8	New Limitation \$10,320 \$10,424 \$10,523 \$10,622 \$10,726 \$10,824 \$10,928 \$11,027	% Change +6% +6% +6% +6% +6% +6% +6%	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.	



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

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



	individual options, level one, and self-empowered life funding waivers to get to and/or from a place of employment or to access adult day support, career planning, group employment support, individual employment support, and/or vocational habilitation. **The current definition of non-medical	 (b) A location where adult day support, career planning, group employment support, individual employment support, or vocational habilitation is provided to the individual; (c) A volunteer activity; (d) A post-secondary educational program; (e) An internship or practicum; and/or (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. 	
	transportation has many provisions that will remain a part of the proposed rule but have been moved other sections in the proposed rule**		
Page 4; Definitions (B)(23)	N/A	"Volunteer activity" means an activity performed by an individual for which the individual receives no payment.	
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.	N/A This requirement has been removed	No issues noted, but some insurance companies used by providers may still require drug testing prior service provision.



Page 7; (D)	General requirements for	Meeting an individual's needs for nonmedical transportation	This change was initiated by
	service delivery	(1) There are three modes of non-medical transportation:	the need to clarify the ability
		(a) Non-medical transportation at the per-trip rate;	for an individual to receive a
		(b) Non-medical transportation at the per-mile rate; and	combination of NMT
		(c) Non-medical transportation provided by operators of commercial	transportation modes in a
		vehicles at the usual and customary fare.	single day.
		(2) An individual's non-medical transportation needs may be met	
		through a combination of non-medical transportation at the per-trip	Question: If members agree,
		rate, non-medical transportation at the per-mile rate, and/or non-	we would like to suggest that
		medical transportation provided by operators of commercial vehicles	DODD add the following
		at the usual and customary fare.	language:
			"Non-medical transportation
			at the per-trip rate is
			primarily to be used to get to
			and from the beginning and
			ending of:
			(a) A location where adult
			day support, career planning,
			group employment support,
			individual employment
			support, or vocational
			habilitation is provided to the
			individual;
			(b) A volunteer activity;
			(c) A post-secondary
			educational program;
			(d) An internship or
			practicum; and/or
			(e) A drop-off or transfer
			location from which the
			individual is then transported



Page 7; General Requirements for Service Delivery/Meeting an Individual's Needs for NMT (D)(3)	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</u> vehicle, at the per-trip or per-mile rate, and/or by operators of commercial vehicles	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	to or from one of the places specified in paragraphs (B)(16)(a) to (B)(16)(e) of this rule.; 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 " Question : Do we need to request language that clarifies what should happen when the ISP team disagrees about the need for a modified vehicle?
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	Nothing in this rule chall		
1 I - I -	Nothing in this rule shall	Nothing in this rule shall be interpreted to prohibit a provider of	The OPRA team suggests
-	be interpreted to prohibit	homemaker/personal care or participant-directed	clarification from DODD on
	a provider of	homemaker/personal care from transporting an individual to, from,	this revision.
	nomemaker/personal care	between, or among the venues described in paragraph	
fi	rom transporting an	(B)(16) of this rule and billing for homemaker/personal care in	
Proposed Rule - ir	ndividual to and/or from	accordance with rule 5123-9-30 of the Administrative Code or	
Page 7; Meeting t	he individual's place of	participant-directed	
an Individual's 🧧	employment or the site	homemaker/personal care in accordance with rule 5123-9-32 of the	
Needs for NMT	where adult day support,	Administrative Code and transportation in accordance with rule	
(D)(5) <u>c</u>	career planning, group	5123-9-24 of	
<u>e</u>	employment support,	the Administrative Code.	
<u>ir</u>	ndividual employment		
<u>S</u>	support, and/or vocational		
<u>h</u>	nabilitation are provided		
a	and billing for		
h	nomemaker/personal care		
<u>a</u>	and transportation in		
а	accordance with rules		
5	5123:2-9-30 and 5123:2-9-		
2	24 of the Administrative		
C	Code.		
Current Rule – 🤅	3) A vehicle used for non-	(E) Requirements for service delivery of non-medical transportation	The proposed rule requires
Page 6; General <u>n</u>	medical transportation	(1) Drivers of vehicles used for non-medical transportation at the	secured storage space,
Requirements for s	shall be equipped with:	per-trip rate or nonmedical transportation at the per-mile rate shall	communication system, fire
Service Delivery (a	a) Secure storage space	comply with federal, state, and local laws and regulations.	extinguisher, first-aid kit,
(D)(3)-(D)(4) fo	or removable equipment	(2) When a modified vehicle or a vehicle equipped to transport five	daily and annual vehicle
a	and passenger property;	or more passengers is used for non-medical transportation at the	inspections for vehicles
Proposed Rule – (I	b) A communication	per-trip rate or nonmedical	equipped to carry 5 or more
Page 8; s	system, that may include	transportation at the per-mile rate, the vehicle shall:	passengers. In the past we
Requirements for c	cellular communication,	(a) Be equipped with:	have advocated to change
service delivery c	capable	(i) Secure storage space for removable equipment and passenger	this to 7 or more passengers
	of two-way	property;	to be in line with the PUCO
C	communication; and		definition of a Commercial



transportation	1		
	(c) A fire extinguisher and	(ii) A communication system, which may include cellular	Motor Vehicle. Is there still
	an emergency first-aid kit	communication,	value and justification in
	that are safely secured.	capable of two-way communication; and	advocating to change to 7?
	(4) On each day a vehicle	(iii) A fire extinguisher and an emergency first-aid kit that are safely	PUCO rules include the
	is used to provide non-	secured.	following:
	medical transportation,	(b) Be inspected and tested, on each day the vehicle is used to	 On each day a vehicle
	<u>the first driver of the</u>	provide nonmedical transportation, by the first driver of the vehicle	(commercial or non-
	vehicle shall conduct and	and prior to transporting an individual, to ensure the lights,	commercial) is used
	document inspection and	windshield washer/wipers, emergency equipment, mirrors, horn,	to provide non-
	testing of the lights,	tires, and brakes are working. The daily inspection shall be	medical
	windshield washer/wipers,	documented by the driver that conducts the inspection.	transportation, the
	emergency equipment,	(c) Be inspected and determined to be in good working condition at a	first driver of the
	mirrors, horn, tires, and	frequency of at least once every twelve months by the Ohio state	vehicle shall conduct
	brakes prior to	highway patrol safety inspection unit or by a mechanic certified by	and document
	transporting an individual.	an automotive dealership or the national institute for automotive	inspection and
	(5) A vehicle used for non-	service excellence.	testing of the lights,
	medical transportation		windshield wipers,
	shall, at a frequency of at		emergency
	least once every twelve		equipment, mirrors,
	months, be inspected by		horns, tires and
	the Ohio state highway		brakes prior to
	patrol safety inspection		transporting an
	unit or a certified		individual. O.A.C.
	mechanic and be		5123:2-9-18(D)(4)-
	determined to be in good		(D)(5).
	working condition.		At least every 12
	(6) Drivers shall comply		months, the vehicle
	with federal, state, and		shall be inspected by
	local laws and regulations.		the Ohio State
			Highway Patrol safety
			inspection unit or a
			certified mechanic
			and be determined to



			be in good working condition. Proof of inspection should be kept in the vehicle.
			Question: 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.
Page 9; Requirements for service delivery of non-medical transportation at the per-trip Rate (F)(1)(a)	 (1) Non-medical transportation at the per- trip rate shall be provided in: (a) A vehicle with a passenger capacity of nine or more that is not a modified vehicle; 	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</u> <u>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	A provider <u>shall not bill for</u>	A provider may bill for homemaker/personal care or participant-	The OPRA team suggests
pgs. 8 and 10	community inclusion or	directed	further clarification from
	homemaker/personal care	homemaker/personal care provided by the driver during the same	DODD.
	provided by the driver	time nonmedical transportation at the per-mile rate is provided.	
	during the same time non-	A provider shall not bill for homemaker/personal care or participant-	This language state that
	medical transportation is	directed	providers can bill NMT per
	provided	homemaker/personal care provided by the driver during the same	mile rate and HPC at the
		time nonmedical transportation at the per-trip rate is provided.	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;	Each driver shall provide a	N/A	Question: Do you feel
Requirements for	form, completed and		comfortable with the removal
service delivery	signed by a person who is	This requirement has been removed	of this language knowing that
of non-medical	licensed, certified, and/or		PUCO still requires a
transportation at	registered in accordance		physical?
the per-trip	with Ohio law to perform		
Rate (E)(3) of	physical examinations,		PUCO requirement: for
current rule	establishing the driver's		vehicles with 7 or more
	physical qualification to		passengers of vehicles with a
	provide non-medical		gross vehicle weight rating
	transportation. A person		



Page 10; Requirements of transportation at the per- moreN/AN/APage 10; Requirements of tansportation at the per- moreN/AN/APage 10; requirements of tansportation at the per- mice service delivery of non-medical transportation at the per-mileN/AN/APage 10; requirements of to in a whicle with a transportation at the per-mileN/AN/ARequirements for service delivery of non-medical transportation at the per-mileN/AN/ARequirements for service delivery of non-medical transportation at the per-mileSize and the the vehicle during the tis parage reprovided to moreN/ARequirements for service delivery to non-medical transportation at the per-mileSize and the pervided to be provided to be pervided to be pervised builts the per-mile rate except that tis per-mile rate except that tis per-mile rate except that tis per-mile rate except that ting may occur when to be ball of an individual who is receiving individual employment support or the job development, or worksite accessibility components of career planning.No issues noted		•		
Image: Page 10; Requirements for service delivery of non-medical transportation at the per-mileN/ADrivers of CMVs need to have a special medical exam by a special with a paragraph when the agency provider maintains werification that a physical examination is required at the person's hire.Drivers of CMVs need to have a special medical exam by a special paragraph when the a special medical exam by a special paragraph when the agency provider maintainsPage 10; Requirements for service delivery in a vehicle with a passenger capacity of eight or fewer that is not a modified vehicle.N/APage 10; Requirements for in the vehicle during the the per-mile rate except that passenger capacity of eight or fewer that is not a modified vehicle.N/APage 10; Requirements for in the vehicle during the time service delivery of non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation at billing may occur when non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation at the per-mile rate except that billing may occur when support or the job development, or worksite accessibilityNo		employed by an agency		that is 10,001 pounds or
Page 10; Requirements for service delivery of non-medical transportation at the per-mile rate scapt that service delivery of non-medical transportation at the per-mile rate except thatN/ANo secial per-mile rate scapt that being individual shall be in the vehicle during the times the provided bills nonmedical transportation at the per-mile rate except that billing may occur whenN/ANo secial per-mile rate scapt that bills nonmedical transportation at the per-mile rate except that billing may occur whenN/ANo issues noted		provider as a driver prior		
requirements of this paragraph when the agency provider maintains verification that a physical examination was completed at the time of the person's hire.specially licensed medical examination is required at least every 24 months, and the medical examiners website which is administered by the U.S. Department of Transportation at the per- mile rate shall be provided in a vehicle with a requirement has been removedspecially licensed medical examination is required at least every 24 months, and the medical examiners website which is administered by the U.S. Department of 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.N/ANo issues notedPage 10; Requirements for service delivery of non-medical transportation at the per-mile per-mile rate except that service delivery of non-medical transportation at the per-mile rate except that bills nonmedical transportation at the per- mile rate shall be provided in a vehicle during the times the provider bills the per-mile rate except that billing may occur whenG()(1) Individuals shall be in the vehicle during the times the provider bills nonmedical transportation at the per-mile rate except that billing may occur whenNo issues noted		to January 1, 2007 is not		
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service deliverytimes the provider bills thebilling may occur when non-medical transportation is being providedof non-medicalper-mile rate except thaton behalf of an individual who is receiving individual employmenttransportation atbilling may occur whensupport or the job development, or worksite accessibility	Page 10;	(F)(2) Individuals shall be	(G)(1) Individuals shall be in the vehicle during the times the provider	No issues noted
of non-medical transportation atper-mile rate except that billing may occur whenon behalf of an individual who is receiving individual employment gupport or the job development, or worksite accessibility	Requirements for	in the vehicle during the	bills nonmedical transportation at the per-mile rate except that	
transportation at billing may occur when support or the job development, or worksite accessibility	service delivery	times the provider bills the	billing may occur when non-medical transportation is being provided	
	of non-medical	per-mile rate except that	on behalf of an individual who is receiving individual employment	
the per-mile components of career planning.	transportation at	billing may occur when		
	the per-mile	-	components of career planning.	



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



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



		I				
	of-doing-business	provided. The cost-o	-	s categories are	contained in	
	category for the county in	appendix B to this ru	ıle.			
	which the preponderance					
	of service was provided.					
	The cost-of- doing					
	business categories are					
	contained in appendix B to					
	this rule.					
Appendix A	Payment Rates: Listed	Payment Rates: Liste	ed below. Rates a	are established	on a per-person	Per trip rates do not change.
	below. The rates are	basis, depending on	the number of i	ndividuals being	g transported,	
	established on a per	regardless of funding	g source, and wh	nether the servi	ce is provided in	
	person basis depending on	a modified vehicle o	r in a non-modif	ied vehicle. Mul	ltiply the	
	the group size in which	appropriate rate by	the number of m	niles to determi	ne the per-	
	transportation is provided.	person amount to be	e billed to the wa	aiver.	-	
	When more than one					
	individual is receiving			2 or 3	4 or More	
	transportation, the		1 Individual	Individuals	Individuals	
	number of individuals in		1 mainadai	mainadais	mannadals	
	the group shall be		\$1.00 per	\$0.5 per	\$0.38 per	
	determined by totaling the	Modified Vehicle	person	person	person	
	number of individuals,		person	person	person	
	regardless of funding	Non-Modified	\$0.58 per	\$0.29 per	\$0.22 per	
	source, for whom	Vehicle	person	person	person	
	transportation is being	Veniere	person	person	person	
	provided.					
	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					
	1 '					



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

Impacted P	Impacted Providers: HPC providers					
Page; Section	Current Language	New Language	OPRA Comment			
Page 1; (B)(7)	N/A	 <u>"Modified vehicle" means:</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>or</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>**(i)</u> Have permanent fasteners to secure a wheelchair to the floor or side of the vehicle to prevent wheelchair movement; (ii) Have safety harnesses or belts in the vehicle for the purpose of securing individuals in wheelchairs; (iii) Be equipped with a stable access ramp specifically designed for wheelchairs or a hydraulic lift specifically designed for wheelchairs; and (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. 	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.			



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



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Page 6 and	Payment Rates: Listed below. The	Payment Rates: Listed below. Rates are established on a per-						
7; Appendix	rates are established on a per	person						
	person basis depending on the	basis, depending on						
	group size in which	regardless of funding						
	transportation is provided. When	in a modified vehicle						
	more than one individual is	appropriate rate by t						
	receiving transportation, the	person amount to be						
	number of individuals in the							
	group shall be determined by			2 or 3	4 or More			
	totaling the number of		1 Individual	Individuals	Individuals			
	individuals, regardless of funding							
	source, for whom transportation		\$1.00 per	\$0.5 per	\$0.38 per			
	is being provided.	Modified Vehicle	person	person	person			
	Serving 1 Individual- \$ 0.45 per	Non-Modified	\$0.58 per	\$0.29 per	\$0.22 per			
	person	Vehicle	person	person	person			
	Serving 2 or 3 Individuals- \$ 0.23	V CINCIC	person	person	person			
	per person							
	Serving 4 or More Individuals- \$							
	0.17 per person							
		1						



Rule: 5123-9-18: 5123-9-40 Home and community-based services waivers - administration of the self-empowered life funding waiver

Impacted Providers: Providers with individuals using the SELF Waiver

Page; Section	Current Language	New Language	OPRA Comment
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.