

# **\*\*\*Proposed New Rule - February 12, 2025\*\*\***

## **5123-9-08      Home and community-based services waivers - responsibilities and procedures related to extended travel.**

### **(A) Purpose**

This rule establishes responsibilities and procedures that apply when an individual who is enrolled in a home and community-based services waiver administered by the Ohio department of developmental disabilities is receiving paid home and community-based services while engaged in extended travel.

### **(B) Definitions**

For the purposes of this rule, the following definitions apply:

- (1) "Agency provider" means an entity that directly employs at least one person in addition to a director of operations for the purpose of providing services for which the entity is certified in accordance with rule 5123-2-08 of the Administrative Code.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Extended travel" means travel outside of Ohio that includes four or more consecutive overnights while an individual is receiving paid home and community-based services.
- (4) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.
- (5) "Independent provider" means a self-employed person who provides services for which the person is certified in accordance with rule 5123-2-09 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (6) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, the person's guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (7) "Natural supports" means the personal associations and relationships typically developed in the community that enhance the quality of life for individuals. Natural supports may include family members, friends, neighbors, and others in the community or organizations that serve the general public who provide voluntary support to help an individual achieve agreed upon outcomes through the individual service plan development process.
- (8) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance

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with rule 5123-5-02 of the Administrative Code.

- (9) "Team" means the group of persons chosen by an individual with the core responsibility to support the individual in directing development of the individual service plan. The team includes the individual's guardian or adult whom the individual has identified, as applicable, the service and support administrator, direct support professionals, providers, licensed or certified professionals, and any other persons chosen by the individual to help the individual consider possibilities and make decisions.
- (10) "Waiver eligibility span" means the twelve-month period following either an individual's initial waiver enrollment date or a subsequent eligibility redetermination date.

### **(C) Planning for extended travel**

- (1) An individual who is enrolled in a home and community-based services waiver will provide advance notice to the individual's service and support administrator when extended travel is planned. Notification may occur at the annual individual service plan meeting or at other times throughout the year.
- (2) Whenever possible, an individual will provide notice to the service and support administrator at least thirty calendar days in advance of extended travel. When extended travel is due to an unplanned event such as the death of a family member, the individual will provide notice to the service and support administrator as soon as possible.
- (3) Upon notice of the individual's plan for extended travel, the individual's service and support administrator will engage the individual and the individual's team in planning to ensure the individual's health and welfare needs are met during extended travel. The team will consider the individual's travel companions and direct support professionals who will accompany the individual and adjustments that may be necessary to the individual service plan (e.g., travel companions sharing services of paid staff or the need for increased natural supports).
- (4) The individual's plans for extended travel will be documented in the individual service plan.
- (5) The individual and the individual's team will develop a travel safety protocol which will include, but is not limited to:
  - (a) The address where the individual is staying during extended travel.
  - (b) The names and contact information for persons who should be notified in case of an emergency involving the individual or the individual's travel companions.
  - (c) How the team will ensure sufficient natural supports and/or paid support staff are available to meet the individual's needs during the extended travel.

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(d) How the individual's medical needs will be met and how the individual will address medical emergencies.

(e) Modes of communication that will be used by the individual, the service and support administrator, and providers to ensure all parties have information necessary to meet their respective responsibilities.

(6) This rule will not be construed in any manner that would hinder an individual attending a college or university outside of Ohio.

### **(D) Responsibilities of county boards**

(1) All rules governing provision of home and community-based services and a county board's duties and responsibilities set forth in Chapter 5126. of the Revised Code apply while an individual is engaged in extended travel.

(2) A service and support administrator remains responsible for performance of the duties of service and support administration in accordance with rule 5123-4-02 of the Administrative Code while an individual is engaged in extended travel.

(3) The service and support administrator will collaborate and communicate with the individual, the individual's providers, and other members of the individual's team to support the individual while the individual is engaged in extended travel.

### **(E) Responsibilities of providers**

(1) All rules governing provision of home and community-based services apply while an agency provider or independent provider is providing services to an individual engaged in extended travel, including but not limited to:

(a) Maintaining service documentation in accordance with Chapter 5123-9 of the Administrative Code including accurate documentation of the place where services occur.

(b) Reporting major unusual incidents and unusual incidents in accordance with rule 5123-17-02 of the Administrative Code.

(c) Administration of medication and performance of health-related activities in accordance with Chapter 5123-6 of the Administrative Code.

(2) A provider will collaborate and communicate with the individual, the individual's service and support administrator, and other members of the individual's team to support the individual while the individual is engaged in extended travel.

(3) A provider will ensure the individual's service and support administrator is informed if the individual's extended travel plans change.

### **(F) Responsibilities of individuals**

(1) An individual will inform the individual's service and support administrator of the

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individual's extended travel plans and ensure the service and support administrator has contact information for the individual during the extended travel.

- (2) An individual will collaborate and communicate with the individual's service and support administrator, providers, and other members of the individual's team to ensure the individual's health and welfare needs are met while the individual is engaged in extended travel.
- (3) An individual will inform the individual's service and support administrator if the individual's extended travel plans change.

### **(G) Extended travel limitations**

- (1) Extended travel by an individual enrolled in home and community-based services is limited to a total of sixty days in a waiver eligibility span unless an exception is requested and granted in accordance with paragraph (G)(2) or (G)(3) of this rule.
- (2) An exception may be requested and granted in advance of extended travel as part of the extended travel planning process described in paragraph (C) of this rule.
- (3) When an exception is due to an emergency, the individual will submit a written request (which may be submitted by electronic mail) to the individual's service and support administrator as soon as possible. The written request will include an explanation of the emergency. Examples of circumstances that may warrant granting an emergency exception include, but are not limited to, hospitalization, death in the family, or natural disaster. The service and support administrator will respond to the individual in writing within seven calendar days. When a request is not granted, the written response will include an explanation of the reason and the individual's right to due process in accordance with paragraph (H) of this rule.

### **(H) Due process**

- (1) An applicant for or recipient of home and community-based services will use the process set forth in section 5160.31 of the Revised Code and Chapters 5101:6-1 to 5101:6-9 of the Administrative Code for any challenge related to the type, amount, scope, or duration of services included in or excluded from an individual service plan. The process set forth in section 5160.31 of the Revised Code is available only to applicants, recipients, and their lawfully appointed authorized representatives. Providers have no standing in an appeal under that section.
- (2) The county board will issue and explain due process to the individual, using a form approved by the Ohio department of job and family services (available at [odjfs.state.oh.us/forms/](http://odjfs.state.oh.us/forms/)).