

# \*\*\*Proposed Amendments - September 11, 2024\*\*\*

## 5123-9-12 Home and community-based services waivers - assistive technology under the individual options, level one, and self-empowered life funding waivers.

### (A) Purpose

This rule defines assistive technology and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

### (B) Definitions

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

- (1) "Accredited college or university" means a college or university accredited by a national or regional association recognized by the secretary of the United States department of education or a foreign college or university of comparable standing.
- (2) "Acquisition costs" means the cost of any attachments, accessories, or auxiliary apparatus necessary to make assistive technology    equipment usable; taxes; duty; protective in-transit insurance; and freight charges.
- (3) "Actual price" means the actual price that a provider of assistive technology    equipment is charged to purchase an item of equipment by the seller and that fully and accurately reflects any discount or rebate the provider receives. The provider ~~shall~~ will maintain documentation of the actual price in the form of an invoice from the seller that gives details of date, price, quantity, and type of the assistive technology    equipment or other documentation approved by the department.
- (4) "Agency provider" ~~has the same meaning as in~~ 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.
- (5) "Assistive technology" means an interactive electronic item, device, product system, or engineered solution, ~~whether acquired commercially, modified, or customized,~~ that addresses an individual's needs and outcomes identified in the individual service plan and that is for the direct benefit of the individual in maintaining or improving independence, functional capabilities, vocational skills, community involvement, or physical skills. Assistive technology has three distinct components:
  - (a) "Assistive technology    consultation" means an evaluation of the assistive technology needs of an individual, including a functional evaluation of technologies available to address the individual's assessed needs and support the individual to achieve outcomes identified in ~~his or her~~ the individual service plan.

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- (b) "Assistive technology    equipment" means the cost of equipment comprising the assistive technology and may include engineering, designing, fitting, customizing, or otherwise adapting the equipment to meet an individual's specific needs. Assistive technology    equipment may include equipment used for remote support such as motion sensing system, radio frequency identification, live video feed, live audio feed, web-based monitoring, or other device that meets the requirements set forth in this rule and rule 5123-9-35 of the Administrative Code. Assistive technology    equipment does not include non-technical, non-electronic equipment (e.g., grab bars or wheelchair ramps) or items otherwise available as environmental accessibility adaptations or specialized medical equipment and supplies.
- (c) "Assistive technology    support" means education and training that aids an individual in the use of assistive technology    equipment as well as training for the individual's family members, guardian, staff, or other persons who provide natural supports or paid services, employ the individual, or who are otherwise substantially involved in activities being supported by the assistive technology    equipment. Assistive technology    support may include, when necessary, coordination with complementary therapies or interventions and adjustments to existing assistive technology to ensure its ongoing effectiveness.
- (6) "County board" means a county board of developmental disabilities.
- (7) "Department" means the Ohio department of developmental disabilities.
- (8) "Environmental accessibility adaptations" has the same meaning as in rule 5123-9-23 of the Administrative Code.
- (9) "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 ~~shall~~ will be added together for the purpose of calculating the number of fifteen-minute billing units for the day.
- (10) "Homemaker/personal care" has the same meaning as in rule 5123-9-30 of the Administrative Code.
- ~~(11) "Independent provider" has the same meaning as in rule 5123-2-09 of the Administrative Code.~~
- (11) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, ~~his or her~~ the person's guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (12) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

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- (13) "Manufacturer's suggested retail price" means the current retail price of an item of assistive technology    equipment that is recommended by the item's manufacturer. If a provider of assistive technology    equipment is also the manufacturer, the provider may establish a suggested retail price if the price is equal to or less than the suggested retail price for the same or a comparable item of equipment recommended by one or more other manufacturers.
- (14) "Remote support" has the same meaning as in rule 5123-9-35 of the Administrative Code.
- (15) "Remote support vendor" has the same meaning as in rule 5123-9-35 of the Administrative Code.
- (16) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule ~~5123-2-5-02~~ 5123-5-02 of the Administrative Code.
- (17) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that ~~shall include~~ includes the items delineated in paragraph (E) of this rule to validate payment for medicaid services.
- (18) "Specialized medical equipment and supplies" has the same meaning as in rule 5123-9-25 of the Administrative Code.
- (19) "Team" has the same meaning as in rule 5123-4-02 of the Administrative Code.
- (20) "Useful life" means two years.
- (21) "Waiver eligibility span" means the twelve-month period following either an individual's initial waiver enrollment date or a subsequent eligibility re-determination date.
- (C) Provider qualifications
- (1) Assistive technology ~~shall~~ will be provided only by an agency provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.
- ~~(2) Assistive technology shall not be provided by an independent provider, a county board, or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.~~
- (2) An applicant seeking approval to provide assistive technology ~~shall~~ will complete and

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submit an application ~~through the department's website (<http://dodd.ohio.gov>)~~ and [adhere to the requirements of rule 5123-2-08 of the Administrative Code.](#)

- (3) An applicant seeking approval to provide assistive technology ~~consultation~~ shall will submit documentation to the department demonstrating that persons who deliver the service:
- (a) Hold a license in occupational therapy or physical therapy issued in accordance with Chapter 4755. of the Revised Code; or
  - (b) Hold a license in speech-language pathology issued in accordance with Chapter 4753. of the Revised Code; or
  - (c) Hold assistive technology professional certification issued by the "Rehabilitation Engineering and Assistive Technology Society of North America;" or
  - (d) Have at least two years of full-time (or part-time equivalent), paid work experience in the developmental disabilities services delivery system and hold a bachelor's degree from an accredited college or university in:
    - (i) Biomedical, computer, electrical, or mechanical engineering;
    - (ii) Health and rehabilitation sciences including, but not limited to, occupational therapy, physical therapy, speech-language pathology, or rehabilitation counseling; or
    - (iii) Engineering technology, special education, or a related program.
- (4) An applicant seeking approval to provide assistive technology ~~equipment~~ shall will provide written assurance that the applicant has experience related to interactive electronic items, devices, product systems, or engineered solutions that directly benefit individuals in maintaining or improving independence, functional capabilities, vocational skills, community involvement, or physical skills.
- (5) An applicant seeking approval to provide assistive technology ~~support~~ shall will either:
- (a) Meet the requirements set forth in paragraph ~~(C)(4)~~ or (C)(3) of this rule; or
  - (b) Meet the requirements set forth in paragraph ~~(C)(5)~~ (C)(4) of this rule.
- (6) Failure to comply with this rule and rule 5123-2-08 of the Administrative Code may result in denial, suspension, or revocation of the provider's certification.
- (D) Requirements for service delivery
- (1) Assistive technology is intended to address an individual's assessed needs in a manner that promotes autonomy and minimizes dependence on paid support staff and should

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be explored prior to authorizing services that may be more intrusive, including homemaker/personal care.

- (2) Assistive technology ~~shall~~ will be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code.
- (3) Prior to selecting assistive technology    equipment, the team may access assistive technology    consultation by a qualified provider to assess the fit between an individual and a device or system being considered for purchase or lease.
- (4) In accordance with rule ~~5123:2-9-02~~ 5123-9-02 of the Administrative Code, waiver funds may be used for assistive technology only when no other funds or resources are available.
- (5) Purchase or lease of assistive technology    equipment ~~shall~~ must be the least costly alternative that reasonably meets an individual's assessed needs.
- (6) Assistive technology    equipment ~~shall~~ does not include:
  - (a) Internet service;
  - (b) Items or equipment that are illegal or otherwise prohibited by federal or state statutes or regulations;
  - (c) Items or equipment used solely for entertainment or recreational purposes;
  - (d) Items or equipment used solely for the purpose of general utility;
  - (e) New equipment or repair of previously approved equipment that has been damaged as a result of confirmed misuse, abuse, or negligence; or
  - (f) Purchase or lease of a personal computing device such as a desktop, laptop, or tablet that duplicates any similar equipment in the possession of, or service currently used by, the individual.
- (7) A provider of assistive technology    equipment ~~shall be~~ is responsible for:
  - (a) Delivery of the assistive technology    equipment to the individual;
  - (b) Assembly and set-up of the assistive technology    equipment, if required;
  - (c) Coordinating as necessary with a provider of assistive technology    support to ensure the individual and others identified by the individual receive instruction in effective use of the assistive technology    equipment; and
  - (d) Maintenance, necessary repairs, and replacement of the assistive technology    equipment prior to expiration of its useful life for any reason other than misuse or damage by the individual.

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- (8) Assistive technology    equipment to be used for remote support ~~shall~~ will be designed so that it may be turned off by the remote support vendor when requested by a person designated in the individual service plan.
  - (9) Assistive technology    support ~~shall~~ will not exceed forty hours per waiver eligibility span.
  - (10) A provider of assistive technology    support ~~shall~~ will coordinate as necessary with the provider of assistive technology    equipment to ensure that the individual and others identified by the individual receive instruction in effective use of the assistive technology    equipment.
- (E) Documentation of services
- (1) Service documentation for assistive technology ~~shall~~ will include each of the following to validate payment for medicaid services.
    - (a) Type of service (i.e., assistive technology    consultation, assistive technology    equipment, or assistive technology    support).
    - (b) Name of individual receiving service.
    - (c) Medicaid identification number of individual receiving service.
    - (d) Name of provider.
    - (e) Provider identifier/contract number.
  - (2) In addition to the requirements set forth in paragraph (E)(1) of this rule, service documentation for assistive technology    consultation ~~shall~~ will include:
    - (a) A description of the functional evaluation process and technologies considered to address the individual's needs and support desired outcomes.
    - (b) A written recommendation that identifies the specific items and estimated cost of assistive technology    equipment necessary to advance achievement of outcomes defined in the individual service plan.
    - (c) The date the written recommendation was completed and submitted to the individual's service and support administrator.
  - (3) In addition to the requirements set forth in paragraph (E)(1) of this rule, service documentation for assistive technology    equipment ~~shall~~ will include:
    - (a) The address where assistive technology    equipment is installed.
    - (b) A list of installed assistive technology    equipment including the date each item of assistive technology    equipment is installed, modified, repaired, or removed

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and the reasons therefore, and associated adjustments in cost.

- (4) In addition to the requirements set forth in paragraph (E)(1) of this rule, service documentation for assistive technology shall will include, as applicable:
- (a) The date, time, duration, location, and description of education and training provided and the names of persons receiving the education and training.
  - (b) The date, time, duration, location, and description of activities necessary to coordinate assistive technology with complementary therapies or interventions.
- (F) Payment standards
- (1) The billing units, service codes, and payment rates for assistive technology are contained in the appendix to this rule.
  - (2) A county board shall will authorize payment for assistive technology shall will consultation within ten calendar days of receiving the written recommendation described in paragraph (E)(2)(b) of this rule.
  - (3) The cost of all components of assistive technology shall will equipment shall will not exceed five thousand dollars per waiver eligibility span.
  - (4) Purchase or lease of assistive technology shall will equipment shall will include, as appropriate, monthly fees and the manufacturer's and seller's warranties.
  - (5) When a provider of assistive technology shall will equipment leases or manufactures assistive technology shall will equipment, the cost billed to the department shall will be the lesser of the provider's usual and customary charge or the manufacturer's suggested retail price (which shall will be prorated over the useful life of the assistive technology shall will equipment) plus a reasonable percentage adequate to cover the cost of the provider's responsibilities as set forth in paragraph (D)(7) of this rule.
  - (6) When a provider of assistive technology shall will equipment purchases assistive technology shall will equipment, the cost billed to the department shall will be the lesser of the provider's usual and customary charge or the actual price plus acquisition costs of the item plus a reasonable percentage adequate to cover the cost of the provider's responsibilities as set forth in paragraph (D)(7) of this rule.
  - (7) Claims for payment for assistive technology shall will be submitted to the department upon the provider's receipt of verification from the county board that the delivered services meet the requirements specified in the individual service plan.
  - (8) When two or more individuals share assistive technology shall will equipment, the payment rate shall will be divided equally among those individuals, without regard to funding

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source for the service.

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## APPENDIX

### BILLING UNITS, SERVICE CODES, AND PAYMENT RATES FOR ASSISTIVE TECHNOLOGY

#### Assistive Technology - Consultation

Billing Unit:	Outcome based (written recommendation required for payment)	
Service Codes:	Individual Options Waiver	ATC
	Level One Waiver	FTC
	Self-Empowered Life Funding Waiver	STC
Payment Rate:	\$137.44	

#### Assistive Technology - Equipment

Billing Unit:	Per item	
Service Codes:	Individual Options Waiver	ATQ
	Level One Waiver	FTQ
	Self-Empowered Life Funding Waiver	STQ
Payment Rate:	The lesser of the provider's usual and customary charge or the manufacturer's suggested retail price plus a reasonable percentage adequate to cover the cost of the provider's responsibilities. Recurring monthly fees <del>may</del> <u>will</u> not exceed \$75.00.	

#### Assistive Technology - Support

Billing Unit:	Fifteen-minute billing unit	
Service Codes:	Individual Options Waiver	ATS
	Level One Waiver	FTS
	Self-Empowered Life Funding Waiver	STS
Payment Rate:	\$5.45	