

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

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

### **(A) Purpose**

This rule defines transportation 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 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) "Commercial vehicles" means buses, light rail transit, livery vehicles, and taxicabs that are available for use by the general public.~~
- (2) "Department" means the Ohio department of developmental disabilities.
- (3) "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.
- (4) "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.
- (5) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (6) "Modified vehicle" means:
  - (a) A motor vehicle to be used upon public streets and highways that has been structurally modified in a permanent manner to meet the physical or behavioral needs of the individual being transported; 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:
    - (i) Has permanent fasteners to secure a wheelchair to the floor or side of the vehicle to prevent wheelchair movement;
    - (ii) Has safety harnesses or belts in the vehicle for the purpose of securing individuals in wheelchairs;

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- (iii) Is equipped with a stable access ramp specifically designed for wheelchairs or a hydraulic lift specifically designed for wheelchairs; and
  - (iv) Is inspected, on each day the vehicle is used to provide transportation, by the first driver of the vehicle and prior to transporting an individual in a wheelchair, to ensure the permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lift are working. The inspection will be documented by the driver that conducts the inspection.
- (7) "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 includes the items delineated in paragraph (E) of this rule to validate payment for medicaid services.
- (8) "Transportation" means a service that enables individuals enrolled in individual options, level one, and self-empowered life funding waivers to access waiver and other community services, activities, and resources. This service is offered in addition to, and will not replace, medical transportation required under 42 C.F.R. 431.53 as in effect on the effective date of this rule; or transportation services under the medicaid state plan as defined in 42 C.F.R. 440.170(a) as in effect on the effective date of this rule; ~~if applicable, and non-medical transportation as defined in rule 5123-9-18 of the Administrative Code.~~
- ~~(10) "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) Transportation will be provided by an independent provider; or an agency provider; ~~or an operator of commercial vehicles~~ that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.
- (2) An applicant seeking approval to provide transportation will complete and submit an application and adhere to the requirements of as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code.
- (3) An applicant seeking approval to provide transportation as an independent provider will present the applicant's driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of application for initial or renewal provider certification. A person having six or more points on the person's driving record is prohibited from providing transportation.
- (4) An independent provider of transportation will:

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- (a) Hold a valid driver's license as specified by Ohio law.
  - (b) Have valid liability insurance as specified by Ohio law.
  - (c) Immediately notify the department, in writing, if the independent provider accumulates six or more points on the independent provider's driving record or has a driver's license suspended or revoked.
  - (d) Complete testing for controlled substances by a laboratory certified for such testing within thirty-two hours and complete testing for blood alcohol level by an entity certified for such testing within eight hours of a motor vehicle accident involving the driver while the driver was providing transportation when:
    - (i) The accident involves the loss of human life; or
    - (ii) The driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:
      - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
      - (b) One or more motor vehicles incurred disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
- (5) An agency provider of transportation will:
- (a) Ensure that each driver holds a valid driver's license as specified by Ohio law.
  - (b) Ensure that each driver is covered by valid liability insurance as specified by Ohio law.
  - (c) Obtain, for each driver, a driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of initial employment as a driver and at least once every three years thereafter. A person having six or more points on the person's driving record is prohibited from providing transportation.
  - (d) Require each driver to immediately notify the agency provider, in writing, if the driver accumulates six or more points on the driver's driving record or has a driver's license suspended or revoked.
  - (e) Ensure that each driver completes testing for controlled substances by a laboratory certified for such testing within thirty-two hours and completes testing for blood alcohol level by an entity certified for such testing within eight hours of a motor vehicle accident involving the driver while the driver was providing transportation when:
    - (i) The accident involves the loss of human life; or

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(ii) The driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(b) One or more motor vehicles incurred disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(f) Develop and implement written policies and procedures regarding vehicle accessibility, vehicle maintenance, and requirements for vehicle drivers.

(6) Failure of a provider to comply with this rule and as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code, may result in the denial, suspension, or revocation of the provider's certification.

### **(D) Requirements for service delivery**

(1) Transportation will be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code. Whenever possible, family, neighbors, friends, or community agencies that transport people without charge are to be used to meet an individual's needs. An individual's need for transportation to be provided in a modified vehicle is to be documented in the individual service plan.

(2) Transportation services may extend to those times when the individual is not physically present and the provider is performing transportation on behalf of the individual.

### **(E) Documentation of services**

Service documentation for transportation will include each of the following to validate payment for medicaid services:

(1) Type of service.

(2) Date of service.

(3) License plate number of vehicle used to provide service.

(4) Name of individual receiving service.

(5) Medicaid identification number of individual receiving service.

(6) Name of provider.

(7) Provider identifier/contract number.

(8) Origination and destination points of transportation provided.

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~~(9) Total number of miles of transportation provided.~~

(10) The number of miles in each trip, as indicated by recording beginning and ending odometer readings or via tracking or mapping by a global positioning system.

~~(10) Number of individuals being transported.~~

(11) Names of all individuals who were in the vehicle during any portion of the trip.

(12) Written or electronic signature of the ~~person delivering the service,~~ driver of the vehicle or initials of the ~~person delivering the service~~ driver of the vehicle if a signature and corresponding initials are on file with the provider.

~~(12) Description and details of the services delivered that directly relate to the services specified in the approved individual service plan as the services to be provided.~~

### (F) Payment standards

~~(1) The billing unit, service codes, and payment rates for transportation provided January 1, 2024 through June 30, 2024 are contained in appendix A to this rule. The billing unit, service codes, and payment rates for transportation provided on or after July 1, 2024 are contained in appendix B to this rule.~~

(1) The billing unit, service codes, and payment rates for transportation are contained in the appendix to this rule.

(2) Payment rates for transportation 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 will be applied for each individual being transported when at least one individual requires the use of a modified vehicle, as specified in the individual service plan.

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## APPENDIX A

### BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR TRANSPORTATION PROVIDED JANUARY 1, 2024 THROUGH JUNE 30, 2024

~~Billing Unit: Per mile~~

~~Service Codes—Modified Vehicle:~~

|   |                |
|---|----------------|
| <del>Individual Options Waiver</del>          | <del>ATO</del> |
| <del>Level One Waiver</del>                   | <del>FTO</del> |
| <del>Self-Empowered Life Funding Waiver</del> | <del>STO</del> |

~~Service Codes—Non-Modified Vehicle:~~

|   |                |
|---|----------------|
| <del>Individual Options Waiver</del>          | <del>ATN</del> |
| <del>Level One Waiver</del>                   | <del>FTN</del> |
| <del>Self-Empowered Life Funding Waiver</del> | <del>STN</del> |

~~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.~~

|                      | 1<br>Individual   | 2 or 3<br>Individuals | 4 or More<br>Individuals |
|----------------------|-------------------|-----------------------|--------------------------|
| Modified Vehicle     | \$1.36 per person | \$.68 per person      | \$.52 per person         |
| Non-Modified Vehicle | \$.78 per person  | \$.38 per person      | \$.30 per person         |

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## APPENDIX ~~B~~

### BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR TRANSPORTATION ~~PROVIDED ON OR AFTER JULY 1, 2024~~

Billing Unit: Per mile

Service Codes - Modified Vehicle:

|                                    |     |
|------------------------------------|-----|
| Individual Options Waiver          | ATO |
| Level One Waiver                   | FTO |
| Self-Empowered Life Funding Waiver | STO |

Service Codes - Non-Modified Vehicle:

|                                    |     |
|------------------------------------|-----|
| Individual Options Waiver          | ATN |
| Level One Waiver                   | FTN |
| Self-Empowered Life Funding Waiver | STN |

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~~ The appropriate rate is multiplied by the number of miles to determine the per-person amount to be billed to the waiver.

|                      | 1<br>Individual   | 2 or 3<br>Individuals | 4 or More<br>Individuals |
|----------------------|-------------------|-----------------------|--------------------------|
| Modified Vehicle     | \$1.44 per person | \$0.72 per person     | \$0.55 per person        |
| Non-Modified Vehicle | \$0.83 per person | \$0.42 per person     | \$0.32 per person        |