

## **\*\*\*Proposed New Rule - June 4, 2021\*\*\***

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

#### **(A) Purpose**

This rule defines self-directed 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) "Department" means the Ohio department of developmental disabilities.
- (2) "Financial management services entity" means a governmental entity and/or another third-party entity designated by the Ohio department of medicaid to perform necessary financial transactions on behalf of individuals enrolled in home and community-based services waivers administered by the department.
- (3) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.
- (4) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (5) "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.
- (6) "Self-directed transportation" means a service that enables an individual to access activities and opportunities available in the broader community such as competitive integrated workplaces, integrated community participation and contribution, community resources, and businesses consistent with the individual service plan. Self-directed transportation enhances independence as it is available around the clock, including on weekends and holidays, to accommodate an individual's scheduled and spontaneous transportation needs.

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### **(a) Self-directed transportation includes:**

- (i) Modes available to the general public including but not limited to bus, light rail transit, livery vehicle, and taxicab or other ride-hailing service (such as "Lyft" or "Uber") at the usual and customary rate or fare;
- (ii) Purchase of prepaid transportation vouchers, cards, passes, or tokens such as those available from regional transit authorities and taxicab operators or other ride-hailing services at the usual and customary rate or fare; and
- (iii) Mileage reimbursement made to a person who meets the provider qualifications in paragraph (C) and has a written agreement for provision of self-directed transportation with the individual being transported.

### **(b) Self-directed transportation shall be provided in the most cost-efficient manner available that meets the needs of the individual (including provision in a modified vehicle).**

### **(c) An individual's self-directed transportation budget for a waiver eligibility span is determined based on the individual's needs and consideration of the individual's preferences and available funds.**

(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 shall include the items delineated in paragraph (E) of this rule to validate payment for medicaid services.

(8) "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) Rules 5123-2-08 and 5123-2-09 of the Administrative Code do not apply to providers of self-directed transportation.

(2) Self-directed transportation shall be provided by a person or entity that:

- (a) Meets the requirements of this rule;
- (b) Has a medicaid provider agreement with the Ohio department of Medicaid; and
- (c) Is authorized by the financial management services entity.

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- (3) A person seeking authorization to provide self-directed transportation shall present his or her driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of his or her application. A person having six or more points on his or her driving record is prohibited from providing self-directed transportation.
- (4) A person providing self-directed transportation shall:
  - (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 financial management services entity, in writing, if he or she accumulates six or more points on his or her driving record or if his or her driver's license is suspended or revoked.
- (5) An entity providing self-directed transportation shall:
  - (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 his or her driving record is prohibited from providing self-directed transportation.
  - (d) Require each driver to immediately notify the entity in writing, if the driver accumulates six or more points on his or her driving record or if his or her driver's license is suspended or revoked.
  - (e) Develop and implement written policies and procedures regarding vehicle accessibility, vehicle maintenance, and requirements for vehicle drivers.
- (6) Failure to comply with this rule may result in the denial, suspension, or revocation of authorization to provide self-directed transportation.

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

Self-directed transportation shall be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code. If an individual requires self-directed transportation to be provided in a modified vehicle, it shall be documented in the individual service plan.

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

Service documentation for self-directed transportation shall include each of the following to validate payment for medicaid services:

- (1) Mode or type of self-directed transportation service provided.
- (2) Date of service.
- (3) Name of individual receiving service.
- (4) Medicaid identification number of individual receiving service.
- (5) Name of provider.
- (6) Provider identifier/contract number.
- (7) Origination and destination points of self-directed transportation provided (when applicable).
- (8) Total number of miles of self-directed transportation provided (for mileage reimbursement).
- (9) Number of individuals being transported (for mileage reimbursement).
- (10) Written or electronic signature of the person delivering the service, or initials of the person delivering the service if a signature and corresponding initials are on file with the providing entity.

### **(F) Payment standards**

- (1) The billing units, service codes, and payment rates for self-directed transportation are contained in the appendix to this rule.
- (2) Payment rates for self-directed transportation in modes available to the general public shall be at the usual and customary rate or fare.
- (3) Mileage reimbursement made to a person who has a written agreement for provision of self-directed transportation with the individual being transported are established on a per-person basis, depending on the number of individuals being transported, regardless of funding source, and whether the service is provided in a modified vehicle or in a non-modified vehicle. The modified vehicle rate shall be billed for each individual being transported when at least one individual requires the use of a modified vehicle, as specified in his or her individual service plan.

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## APPENDIX

### BILLING UNITS, SERVICE CODES, AND PAYMENT RATES FOR SELF-DIRECTED TRANSPORTATION

#### Self-Directed Transportation in Modes Available to the General Public

Billing Unit: Per mile, trip, voucher, card, pass, or token

Service Codes:

Individual Options Waiver	???
Level One Waiver	???
Self-Empowered Life Funding Waiver	???

Payment Rate: Usual and customary rate or fare

#### Mileage Reimbursement Made to a Person Who Has a Written Agreement for Provision of Self-Directed Transportation with the Individual Being Transported

Billing Unit: Per mile

Service Codes - Modified Vehicle:

Individual Options Waiver	???
Level One Waiver	???
Self-Empowered Life Funding Waiver	???

Service Codes - Non-Modified Vehicle:

Individual Options Waiver	???
Level One Waiver	???
Self-Empowered Life Funding Waiver	???

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

	1 Individual	2 or 3 Individuals	4 or More Individuals
Modified Vehicle	\$1.00 per person	\$.50 per person	\$.38 per person
Non-Modified Vehicle	\$.58 per person	\$.29 per person	\$.22 per person