

# **\*\*\*Proposed New Rule - September 10, 2021\*\*\***

## **(to be effective July 1, 2022)**

### **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 department 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 and that shall: **[This wording is from Transportation and Non-Medical Transportation rules.]**
    - (i) 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

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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) Be inspected, on each day the vehicle is used to provide nonmedical 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 shall be documented by the driver that conducts the inspection.

(6) "Non-medical transportation" has the same meaning as in rule 5123-9-18 of the Administrative Code.

(7) "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.

(a) Self-directed transportation includes:

- (i) Purchase of prepaid vouchers, cards, passes, or tokens to access modes of ground transportation available to the general public such as modes available from regional transit authorities and ride-hailing services (e.g., taxicab, "Lyft," or "Uber") at the usual and customary rate or fare; and
- (ii) Per mile or per trip reimbursement made to a person who meets the provider qualifications in paragraph (C) of this rule and who has a written agreement for provision of self-directed transportation with the individual being transported.

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

(b) 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.

(8) "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

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

- (9) "Transportation" has the same meaning as in rule 5123-9-24 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) 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) A vendor of ground transportation available to the general public; or
  - (b) A person who receives per mile or per trip reimbursement in accordance with a written agreement for provision of self-directed transportation with the individual being transported.
  - (c) An independent provider or agency provider certified by the department to provide non-medical transportation or transportation that agrees to provide self-directed transportation in accordance with this rule.
- (3) ~~A provider of person or entity that provides~~ self-directed transportation shall:
  - (a) Meet the requirements of this rule;
  - (b) Have a medicaid provider agreement with the Ohio department of Medicaid **[If required.];** and
  - (c) Be determined qualified to provide self-directed transportation by the financial management services entity.
- (4) A person seeking authorization to receive per mile or per trip reimbursement for self-directed transportation shall apply to the financial management services entity in the manner prescribed by the financial management services entity. The financial management services entity shall ensure that each person seeking authorization:
  - (a) Presents 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

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self-directed transportation.

(b) Holds a valid driver's license as specified by Ohio law.

(c) Has valid liability insurance as specified by Ohio law.

(d) Completes a background investigation in accordance with rule 5123-2-02 of the Administrative Code and does not have any "disqualifying offenses" as that term is defined in paragraph (B)(8) of that rule.

(5) A person authorized by the financial management services entity to receive per mile or per trip reimbursement for self-directed transportation shall 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.

(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.

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

(1) Service documentation for self-directed transportation provided by vendors of ground transportation available to the general public shall include each of the following to validate payment for medicaid services:

(a) Mode of self-directed transportation for which voucher, card, pass, or token may be used (e.g., bus, light rail transit, livery vehicle, or ride-hailing service) provided.

(b) Date of purchase of voucher, card, pass, or token.

(c) Name of individual receiving service.

(d) Medicaid identification number of individual receiving service.

(e) Name of provider.

(f) Provider identifier/contract number. **[If Medicaid provider agreement is required.]**

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- (g) Receipt indicating the amount paid.
- (2) Service documentation for self-directed transportation via ~~mileage per mile or per trip~~ reimbursement made to a person who meets the provider qualifications in paragraph (C) of this rule and who has a written agreement for provision of self-directed transportation with the individual being transported shall include each of the following to validate payment for medicaid services:
  - (a) Type of motor vehicle used to provide self-directed transportation (i.e., modified vehicle or non-modified vehicle).
  - (b) Date of service.
  - (c) Name of individual receiving service.
  - (d) Medicaid identification number of individual receiving service.
  - (e) Name of provider.
  - (f) Provider identifier/contract number. **[If Medicaid provider agreement is required.]**
  - (g) Origination and destination points of self-directed transportation provided.
  - (h) Total number of miles of self-directed transportation provided.
  - (9) Number of individuals being transported.
  - (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 financial management services 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 vouchers, cards, passes, or tokens to access modes of ground transportation available to the general public shall be at the usual and customary rate or fare.
  - (3) Reimbursement made to a person who has a written agreement for provision of self-directed transportation with the individual being transported may be per mile or per trip:
    - (a) Per mile reimbursement is established on a per-person basis, depending on the

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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. **[This wording is from the rules for Transportation and Non-Medical Transportation because as this rule is drafted, the per mile rates are the same.]**

- (b) Per trip reimbursement may be negotiated by an individual being transported and the person providing self-directed transportation up to an amount not to exceed twelve dollars for each one-way trip.

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APPENDIX

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

Prepaid Vouchers, Cards, Passes, or Tokens for Modes of Ground Transportation Available to the General Public

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

Service Codes:

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

Payment Rate: Usual and customary rate or fare

Per Mile 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	XXX
Level One Waiver	XXX
Self-Empowered Life Funding Waiver	XXX

Service Codes - Non-Modified Vehicle:

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

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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	\$1.04 per person	\$.52 per person	\$.40 per person
Non-Modified Vehicle	\$.60 per person	\$.30 per person	\$.23 per person

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

Billing Unit: Per trip

Service Codes:

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

Payment Rate: Negotiated between individual being transported and person providing Self-Directed Transportation. Not to exceed \$12.00 per one-way trip.