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5123-9-35 Home and community-based services waivers - remote support under the individual options, level one, and self-empowered life funding waivers.

(A) Purpose

This rule defines remote support 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) "Assistive technology" has the same meaning as in rule 5123-9-12 of the Administrative Code.
- (3) "Backup support ~~person~~" means the person ~~who~~ or entity that is responsible for responding to an individual's residence in the event of an emergency or when ~~an~~ the individual receiving remote support otherwise needs in-person assistance or the equipment or technology used for delivery of remote support stops working for any reason. Backup support may be provided ~~on an unpaid basis~~ by a:
 - (a) An unpaid family member, friend, or other person selected by the individual; ~~or on a paid basis by an~~
 - (b) A paid agency provider of homemaker/personal care ~~for an individual enrolled in the individual options waiver or level one waiver~~ or in an agency-with-choice arrangement for participant-directed homemaker/personal care ~~provided to an individual enrolled in the self-empowered life funding waiver~~, as applicable. When backup support is provided on a paid basis, ~~by an agency provider or in an agency-with-choice arrangement, the agency provider will be the primary contact for the remote support vendor~~ the provider of remote support and the provider of homemaker/personal care or participant-directed homemaker/personal care will enter into a written agreement to ensure backup support is available if necessary. The written agreement will specify the terms of the arrangement including:
 - (i) The names of the individuals for whom the provider of homemaker/personal care or participant-directed homemaker/personal care serves as backup support.
 - (ii) How the provider of remote support is to contact the provider of homemaker/personal care or participant-directed homemaker/personal care when backup support is needed.

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- (iii) The amount of time generally deemed reasonable for the provider of homemaker/personal care or participant-directed homemaker/personal care to arrive after being contacted by the provider of remote support to render backup support.
- (4) "County board" means a county board of developmental disabilities.
- (5) "Department" means the Ohio department of developmental disabilities.
- (6) "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 will be added together for the purpose of calculating the number of fifteen-minute billing units for the day.
- (7) "Group size" means the number of individuals who are sharing services, regardless of the funding source for those services.
- (8) "Homemaker/personal care" has the same meaning as in rule 5123-9-30 of the Administrative Code.
- ~~(8) "Hourly billing unit" means a billing unit and corresponding payment rate that will be used when forty-five to sixty minutes of remote support are provided by the same provider to the same individual during one calendar day.~~
- ~~(9) "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.~~
- (9) "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.
- (10) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (11) "Monitoring base" means the ~~off-site location~~ physical building from which the remote support staff monitor an individual.
- (12) "Participant-directed homemaker/personal care" has the same meaning as in rule 5123-9-32 of the Administrative Code.
- (13) "Remote support" means ~~the provision of supports~~ continuous supervision of an individual in the individual's residence during the days of the week and times of the day specified in the individual service plan by staff of an agency provider ~~at a remote location~~ located at a monitoring base. ~~who are engaged with an individual~~

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~~through~~

(a) The remote support staff interact with the individual in accordance with the individual service plan using equipment or technology with the capability for live two-way communication. Equipment or technology used to meet this requirement will include one or more of the following components:

- (i) Motion sensing system;
- (ii) Radio frequency identification;
- (iii) Live video feed;
- (iv) Live audio feed;
- (v) Web-based monitoring system; or
- (vi) Another device that facilitates live two-way communication.

(b) Remote support will not be provided in a shared living setting.

~~(14) "Remote support provider" means the agency provider identified in the individual service plan as the provider of remote support. The remote support provider may be either:~~

~~(a) A remote support vendor with unpaid backup support; or~~

~~(b) A provider of homemaker/personal care or participant directed homemaker/personal care who also acts as a remote support vendor or maintains a contract with a remote support vendor to provide paid backup support.~~

(14) "Remote support ~~vendor~~ provider" means the agency provider that supplies or arranges for the monitoring base, engages the remote support staff who monitor an individual from the monitoring base, and supplies the equipment or technology used in the delivery of remote support as identified in the individual service plan.

(15) "Sensor" means equipment used to notify the remote support staff or other persons designated in the individual service plan of a situation that requires attention or activity which may indicate deviations from routine activity and/or future needs. Examples include, but are not limited to, seizure mats, door sensors, floor sensors, motion detectors, heat detectors, and smoke detectors.

(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 5123-5-02 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~~

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~~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. that:~~

- (a) Are created and maintained as services are delivered and completed prior to billing for services;
- (b) Are kept in a manner that fully discloses the extent of services delivered;
- (c) Includes the items delineated in paragraph (E) of this rule; and
- (d) May be created or maintained in electronic software programs.

(18) "Shared living" has the same meaning as in rule 5123-9-33 of the Administrative Code.

(19) "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.

~~(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) Remote support will be provided 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) Remote support will 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 remote support will complete and submit an application and adhere to the requirements of rule 5123-2-08 of the Administrative Code.

(3) ~~Staff of agency providers and entities under contract with agency providers~~ Remote support staff who monitor individuals from the monitoring base will ~~complete:~~

(a) Undergo background investigations conducted in accordance with rule 5123-2-02 of the Administrative Code; and

(b) Complete the training specified in appendix C to rule 5123-2-08 of the Administrative Code.

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~~(5) Failure of a certified provider 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.~~

~~(6) Failure of a licensed provider to comply with this rule and Chapter 5123-3 of the Administrative Code may result in denial, suspension, or revocation of the provider's license.~~

(D) Requirements for service delivery

(1) Remote support is intended to address an individual's assessed needs in a manner that promotes autonomy and minimizes dependence on paid support staff and should be explored prior to authorizing services that may be more intrusive, including homemaker/personal care or participant-directed homemaker/personal care, ~~as applicable.~~

(2) ~~An~~Prior to authorizing provision of remote support, an individual's service and support administrator, in consultation with the individual and the individual's team, will:

(a) Explore whether assistive technology may be adequate to meet the individual's needs; and

(b) ~~assess~~Assess whether remote support is sufficient to ensure the individual's health and welfare.

(3) When an individual and the individual's team determine to proceed with remote support, the individual's service and support administrator will obtain written consent from the individual and each person who lives with the individual or the person's guardian, as applicable.

(a) The remote support provider will provide a form to the service and support administrator that will be used to obtain written consent. The form will include a description of what remote support entails, such as whether the remote support staff will observe activities and/or listen to conversations in the residence, where specifically in the residence the remote support will take place, and whether recordings will be made.

(b) The service and support administrator will maintain a copy of each signed consent form with the individual service plan and provide a copy of each signed consent form to the remote support provider.

(c) The remote support provider will ensure that remote support staff have access to each signed consent form.

(4) Remote support will be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code. The individual service plan of an individual receiving remote support will include:

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- (a) Specific days of the week and times of the day remote support will be provided.
 - (b) The equipment or technology used to provide remote support.
 - (c) Assessed needs to be addressed.
 - (d) A detailed description of the remote support to be provided to an individual and how remote support staff will meet and respond to the individual's assessed needs.
 - (e) The arrangement for backup support including:
 - (i) Whether backup support is paid or unpaid;
 - (ii) The name and contact information for the person or agency provider that provides backup support; and
 - (iii) The amount of time deemed reasonable for backup support to arrive at the individual's residence based on the individual's assessed needs.
 - (f) The protocol to be followed should the individual request that the equipment or technology used for provision of remote support be deactivated.
- (5) Remote support will be provided in real time, not via a recording, by awake staff at a monitoring base ~~using the appropriate connection~~. While remote support is being provided, the remote support staff will not have duties other than to provide remote support. The remote support provider will have sufficient staff on hand at the monitoring base to ensure the health and welfare of individuals receiving remote support.
- ~~(5) Remote support will not be provided in shared living or non-residential settings. [Addressed in paragraph (B)(13).]~~
- ~~(6) When remote support involves the use of audio and/or video equipment that permits remote support staff to view activities and/or listen to conversations in the residence, the individual who receives the service and each person who lives with the individual will consent in writing after being fully informed of what remote support entails including, but not limited to, that the remote support staff will observe their activities and/or listen to their conversations in the residence, where in the residence the remote support will take place, and whether or not recordings will be made. If the individual or a person who lives with the individual has a guardian, the guardian will consent in writing. The individual's service and support administrator will keep a copy of each signed consent form with the individual service plan. [Addressed in paragraph (D)(3).]~~
- (6) When remote support involves the use of audio and/or video equipment or technology that permits remote support staff to view activities and/or listen to conversations in the residence and/or record activities in the residence, the remote support staff will ensure the equipment or technology is not activated when the remote support

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provider is not being paid to provide remote support.

- (7) The remote support ~~vendor~~ provider will provide initial and ongoing training to ~~its~~ remote support staff to ensure they know how to use the monitoring base system and the equipment or technology used to monitor individuals receiving remote support.

(8) The monitoring base:

(a) Will be located in a private room. No one other than remote support staff will have access to the room or be present in the room while remote support is provided.

(b) Will not be located at the residence of any person who receives home and community-based services or in a car or any other vehicle, whether moving or parked.

- (9) The remote support provider will ensure the monitoring base is operated in accordance with this rule. When the monitoring base is located in the residence of remote support staff, the remote support provider will ensure remote support staff understand that the residence may be visited during compliance reviews.

- (10) The remote support ~~vendor~~ provider will have a backup power system (such as battery power and/or generator) in place at ~~the~~ every monitoring base in the event of electrical outages. ~~The remote support vendor will have as well as~~ other backup systems and additional safeguards ~~in place~~ (such as redundant internet connections and network security) as necessary to ensure compliance with paragraphs (D)(11) and (D)(12) of this rule including but not limited to, contacting the backup support person in the event the monitoring base system stops working for any reason. [The requirement to contact backup support in the event the monitoring base stops working is addressed in paragraph (B)(3).]

- (11) The remote support ~~vendor~~ provider will comply with all federal, state, and local regulations that apply to the operation of its business or trade, including but not limited to, the Health Insurance Portability and Accountability Act of 1996, 18 U.S.C. section 2510 to section 2522, ~~as in effect on the effective date of this rule~~ and section 2933.52 of the Revised Code.

- (12) A secure network system requiring authentication, authorization, and encryption of data that complies with 45 C.F.R. section 164.102 to section 164.534 will be in place to ensure that access to computer, video, audio, sensor, and written information is limited to authorized persons.

- (13) The remote support ~~vendor~~ provider will have an effective system for notifying emergency personnel such as police, fire, emergency medical services, and psychiatric crisis response entities.

- (14) The remote support ~~vendor~~ provider will provide an individual who receives remote support with initial and ongoing training on how to use the equipment or technology that comprises the remote support system as specified in the individual service plan.

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- (15) At the beginning of each shift of monitoring an individual, the remote support staff will test the equipment and technology used to provide remote support to that individual or review recent automated system testing to ensure the equipment and technology are working.
- (16) If a known or reported emergency involving an individual arises, the remote support staff will immediately assess the situation and call emergency personnel first, if that is deemed necessary, and then contact the backup support ~~person~~. The remote support staff will stay engaged with the individual during an emergency until emergency personnel or the backup support ~~person~~ arrives at the individual's residence.
- ~~(a) The backup support person will verbally acknowledge receipt of a request for assistance from the remote support staff.~~
- ~~(b) The backup support person will arrive at the individual's location within a reasonable amount of time (to be specified in the individual service plan) when a request for in-person assistance is made. [Addressed in paragraph (D)(4).]~~
- ~~(14) When an individual needs assistance but the situation is not an emergency, the remote support staff will: [Addressed in paragraph (D)(4).]~~
- ~~(a) Address the situation as specified in the individual service plan for an individual who receives remote support with unpaid backup support; or~~
- ~~(b) Contact the paid backup support for an individual who receives remote support with paid backup support.~~
- ~~(15) The remote support staff will have detailed and current written protocols for responding to an individual's needs as specified in the individual service plan, including contact information for the backup support person to provide assistance when necessary. The individual service plan will set forth the protocol to be followed should the individual request that the equipment used for delivery of remote support be turned off. [Addressed in paragraph (D)(4).]~~
- ~~(13) A monitoring base will not be located at the residence of an individual who receives remote support. [Addressed in paragraph (D)(8).]~~
- ~~(16) A secure network system requiring authentication, authorization, and encryption of data that complies with 45 C.F.R. section 164.102 to section 164.534 as in effect on the effective date of this rule will be in place to ensure that access to computer, video, audio, sensor, and written information is limited to authorized persons. [Relocated to paragraph (D)(12).]~~
- (17) If ~~an unusual incident or~~ a major unusual incident as defined in rule 5123-17-02 of the Administrative Code occurs while an individual is being monitored, the remote support provider will retain or ensure the retention of any video and/or audio recordings and any sensor and written information pertaining to the incident for at least seven years from the date of the incident.

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(E) Documentation of services

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

(1) Type of service.

(2) Date and begin and end times of service.

~~(3) Place of service.~~

(3) Name and address of individual receiving service.

(4) Medicaid identification number of individual receiving service.

(5) Name of provider.

(6) Provider identifier/contract number.

(7) Address of monitoring base.

~~(8) Begin and end time of the remote support service when the backup support person is needed on site.~~

(8) When backup support is needed at an individual's residence:

(a) Date and time remote support staff contact backup support.

(b) Date and time backup support arrives and departs the individual's residence as applicable.

(9) 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 provider.

(10) Number of units of the delivered service per calendar day.

(11) Group size in which the service was provided.

(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 units, service codes, and payment rates for remote support provided January 1, 2024 through June 30, 2024 are contained in appendix A to this rule. The billing units, service codes, and payment rates for remote support 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 remote support are contained in the appendix to this rule.

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- (2) There are two payment rates for remote support, which differ depending on whether an individual is receiving remote support with unpaid backup support or with paid backup support.
- (a) When an individual receives remote support with unpaid backup support, the remote support ~~vendor~~ provider will bill for the remote support.
- ~~(b) When an individual receives remote support with paid backup support, the remote support provider will bill for the remote support and provide the remote support directly or through a contract with a remote support vendor that meets the requirements of this rule. In the event that the remote support staff contact the remote support provider to request emergency or in-person assistance, the paid backup support person's time will be billed as homemaker/personal care or participant-directed homemaker/personal care, as applicable.~~
- (b) When an individual receives remote support with paid backup support, and the remote support staff contact the backup support to request emergency or in-person assistance, the paid backup support time will be billed as homemaker/personal care or participant-directed homemaker/personal care, as applicable.
- (3) When remote support is provided to multiple individuals who live in the same residence, the payment rate for remote support is divided equally among the individuals concurrently receiving remote support.

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APPENDIX A

~~BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR REMOTE SUPPORT PROVIDED JANUARY 1, 2024 THROUGH JUNE 30, 2024~~

~~Remote Support With Unpaid Backup Support~~

Billing Unit:	Hourly billing unit per site	
Service Codes:	Individual Options Waiver	AMS
	Level One Waiver	FMS
	Self-Empowered Life Funding Waiver	SMS
Payment Rate:	\$8.99	

~~Remote Support With Paid Backup Support~~

Billing Unit:	Hourly billing unit per site	
Service Codes:	Individual Options Waiver	AMR
	Level One Waiver	FMR
	Self-Empowered Life Funding Waiver	SMR
Payment Rate:	\$13.39	

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APPENDIX B

BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR REMOTE SUPPORT PROVIDED ON OR AFTER JULY 1, 2024

Remote Support With Unpaid Backup Support

Billing Unit:	Hourly billing unit per site	
Service Codes:	Individual Options Waiver	AMS
	Level One Waiver	FMS
	Self-Empowered Life Funding Waiver	SMS
Payment Rate:	\$9.48	

Remote Support With Paid Backup Support

Billing Unit:	Hourly billing unit per site	
Service Codes:	Individual Options Waiver	AMR
	Level One Waiver	FMR
	Self-Empowered Life Funding Waiver	SMR
Payment Rate:	\$14.12	

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APPENDIX

BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR REMOTE SUPPORT

Remote Support With Unpaid Backup Support

<u>Billing Unit:</u>	<u>Fifteen-minute billing unit per site</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>AMS</u>
	<u>Level One Waiver</u>	<u>FMS</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>SMS</u>
<u>Payment Rate:</u>	<u>\$2.37</u>	

Remote Support With Paid Backup Support

<u>Billing Unit:</u>	<u>Fifteen-minute billing unit per site</u>	
<u>Service Codes:</u>	<u>Individual Options Waiver</u>	<u>AMR</u>
	<u>Level One Waiver</u>	<u>FMR</u>
	<u>Self-Empowered Life Funding Waiver</u>	<u>SMR</u>
<u>Payment Rate:</u>	<u>\$3.53</u>	