

*****Proposed Amendments - August 13, 2024*****

5123-9-41 Home and community-based services waivers - clinical/therapeutic intervention under the level one and self-empowered life funding waivers.

(A) Purpose

This rule defines clinical/therapeutic intervention 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" ~~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.
- (2) "Clinical/therapeutic intervention" means services that are necessary to reduce an individual's intensive behaviors and to improve the individual's independence and inclusion in the community and that are not otherwise available under the medicaid state plan. Clinical/therapeutic intervention includes consultation activities that are provided by professionals in psychology, counseling, special education, and behavior management. The service includes the development of a treatment/support plan, training and technical assistance to assist unpaid caregivers and/or paid support staff in carrying out the plan, delivery of the services described in the plan, and monitoring of the individual and the provider in the implementation of the plan. Clinical/therapeutic intervention may be delivered in the individual's home or in the community as described in the individual service plan. Clinical/therapeutic intervention ~~must~~ may be determined necessary to reduce an individual's intensive behaviors only by a functional behavioral assessment conducted by a licensed psychologist, licensed professional clinical counselor, licensed professional counselor, licensed independent social worker, licensed social worker working under the supervision of a licensed independent social worker, or certified Ohio behavior analyst. Experimental treatments are prohibited.
- (3) "County board" means a county board of developmental disabilities.
- (4) "Department" means the Ohio department of developmental disabilities.
- (5) "Family member" means a person who is related to the individual by blood, marriage, or adoption.
- (6) "Functional behavioral assessment" means an assessment, not otherwise available

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under the medicaid state plan, to determine why an individual engages in intensive behaviors and how the individual's behaviors relate to the environment. A functional behavioral assessment describes the relationship between a skill or performance problem and the variables that contribute to its occurrence. A functional behavioral assessment may provide information to develop a hypothesis as to why an individual engages in a behavior, when the individual is most likely to demonstrate the behavior, and situations in which the behavior is least likely to occur.

- (7) "Independent provider" ~~has the same meaning as in~~ 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.
- (8) "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. An individual may designate another person to assist with development of the individual service plan and budget, selection of residence and providers, and negotiation of payment rates for services; the individual's designee shall not be employed by a county board or a provider, or a contractor of either.
- (9) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (10) "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.
- ~~(11) "Waiver eligibility span" means the twelve-month period following either an individual's initial waiver enrollment date or a subsequent eligibility redetermination date.~~

(C) Provider qualifications

- (1) Clinical/therapeutic intervention ~~shall~~ will be provided by an independent provider or an agency provider that:
- (a) Meets the requirements of this rule;
 - (b) Has a medicaid provider agreement with the Ohio department of medicaid; and
 - (c) Has completed and submitted an application ~~through the department's website (<http://dodd.ohio.gov>)~~ and adheres to the requirements of as applicable, rule

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[5123-2-08 or 5123-2-09 of the Administrative Code.](#)

- (2) Clinical/therapeutic intervention ~~shall~~ will be provided by senior level specialized clinical/therapeutic interventionists, specialized clinical/therapeutic interventionists, and clinical/therapeutic interventionists.
- (a) A senior level specialized clinical/therapeutic interventionist ~~shall~~ will have a doctoral degree in psychology, special education, medicine, or a related discipline; be licensed or certified under the laws of the state to practice in that field; and have at least three months of experience and/or training in the implementation and oversight of comprehensive interventions for individuals with developmental disabilities who need significant behaviorally-focused interventions.
- (b) A specialized clinical/therapeutic interventionist ~~shall~~ will:
- (i) Have a master's degree in psychology, special education, or a related discipline and be licensed or certified under the laws of the state to practice in that field or be registered with the state board of psychology as an aide or a psychology aide working under psychological work supervision in accordance with rule 4732-13-03 of the Administrative Code; and
- (ii) Have at least three months of experience and/or training in the implementation and oversight of comprehensive interventions for individuals with developmental disabilities who need significant behaviorally-focused interventions.
- (c) A clinical/therapeutic interventionist ~~shall~~ will work under the supervision of a senior level specialized clinical/therapeutic interventionist or a specialized clinical/therapeutic interventionist and ~~shall~~:
- (i) Have experience providing one-to-one care for an individual with developmental disabilities who needs significant behaviorally-focused interventions;
- (ii) Have undergone two monitored sessions with an individual with developmental disabilities who needs significant behaviorally-focused interventions;
- (iii) Hold a "Registered Behavior Technician" credential issued by the behavior analyst certification board; or
- (iv) Hold a "Board Certified Assistant Behavior Analyst" credential issued by the behavior analyst certification board.

~~(3) A county board or a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards may provide clinical/therapeutic-~~

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~~intervention by senior level specialized clinical/therapeutic interventionists only when no other certified provider is willing and able. Neither a county board nor a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards shall provide clinical/therapeutic intervention by specialized clinical/therapeutic interventionists or clinical/therapeutic interventionists.~~

~~(4)~~ (3) Clinical/therapeutic intervention shall not be provided to an individual by the individual's family member.

~~(5)~~ (4) Failure to comply with this rule and as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code, may result in denial, suspension, or revocation of the provider's certification.

(D) Requirements for service delivery

Clinical/therapeutic intervention ~~shall~~ will be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code.

(E) Documentation of services

Service documentation for clinical/therapeutic intervention ~~shall~~ will include each of the following to validate payment for medicaid services:

- (1) Type of service.
- (2) Date of service.
- (3) Place of 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) 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.
- (9) 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 and details of the individual's response to the services, including progress toward achieving outcomes specified in the individual service plan.
- (10) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.

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(11) Times the delivered service started and stopped.

(F) Payment standards

- (1) The billing unit, service codes, and payment rates for clinical/therapeutic intervention are contained in the appendix to this rule.
- (2) The payment rate for clinical/therapeutic intervention provided by an independent provider ~~shall~~ will be negotiated by the individual and the independent provider subject to the minimum and maximum payment rates contained in the appendix to this rule and ~~shall be~~ identified in the individual service plan.
- (3) The payment rate for clinical/therapeutic intervention provided by an agency provider ~~shall~~ will be the lesser of the agency provider's usual and customary charge or the statewide payment rate contained in the appendix to this rule.

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APPENDIX

BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR CLINICAL/THERAPEUTIC INTERVENTION

Provided by Senior Level Specialized Clinical/Therapeutic Interventionist

Agency Provider

Billing Unit:	Per hour	
Service Codes:	Level One Waiver Self-Empowered Life Funding Waiver	FLA SLA
Payment Rate:	\$123.06	

Independent Provider

Billing Unit:	Per hour	
Service Codes:	Level One Waiver Self-Empowered Life Funding Waiver	FLC SLC
Payment Rate:	Negotiable from \$59.69 to \$90.65	

Provided by Specialized Clinical/Therapeutic Interventionist

Agency Provider

Billing Unit:	Per hour	
Service Codes:	Level One Waiver Self-Empowered Life Funding Waiver	FPT SPT
Payment Rate:	\$68.91	

Independent Provider

Billing Unit:	Per hour	
Service Codes:	Level One Waiver Self-Empowered Life Funding Waiver	FPN SPI
Payment Rate:	Negotiable from \$17.72 to \$50.76	

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Provided by Clinical/Therapeutic Interventionist

Agency Provider

Billing Unit: Per hour

Service Codes: Level One Waiver FCT
Self-Empowered Life Funding Waiver SCT

Payment Rate: \$32.19

Independent Provider

Billing Unit: Per hour

Service Codes: Level One Waiver FCI
Self-Empowered Life Funding Waiver SCI

Payment Rate: Negotiable from minimum wage to \$21.32