

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

### 5123-9-47 Home and community-based services waivers - support brokerage under the self-empowered life funding waiver.

#### (A) Purpose

This rule defines support brokerage and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service.

#### (B) Definitions

- (1) "Agency provider" means an entity that directly employs at least one person in addition to ~~the chief executive officer~~ a director of operations for the purpose of providing services for which the entity ~~must be~~ is certified in accordance with rule ~~5123:2-2-01~~ 5123-2-08 of the Administrative Code.
- (2) "County board" means a county board of developmental disabilities.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Family member" means a person who is related to the individual by blood, marriage, or adoption.
- (5) "Independent provider" means a self-employed person who provides services for which ~~he or she must be~~ the person is certified in accordance with rule ~~5123:2-2-01~~ 5123-2-09 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.
- (6) "Individual" means a person with a developmental disability or for the purposes of giving, refusing to give, or withdrawing consent for services, ~~his or her~~ 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.
- (7) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.
- (8) "Participant direction" means an individual has authority to make decisions about the individual's waiver services and accepts responsibility for taking a direct role in managing the services. Participant direction includes the exercise of budget authority and/or employer authority as set forth in rule 5123-9-40 of the Administrative Code.

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- (9) "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 ~~5123:2-5-02~~ 5123-5-02 of the Administrative Code.
- (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) "Support broker" means a person who is responsible, on a continuing basis, for providing an individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services (particularly those associated with participant direction) in accordance with the individual service plan. The support broker assists the individual with the individual's responsibilities regarding participant direction, including understanding employer authority and budget authority, locating and selecting providers, negotiating payment rates, and keeping the focus of the services and support delivery on the individual and ~~his or her~~ the individual's desired outcomes. The support broker, working in conjunction with the service and support administrator, assists the individual with creating the individual service plan, developing the waiver budget, and doing day-to-day monitoring of the provision of services as specified in the individual service plan.
- (12) "Support brokerage" means the services of a support broker.
- (13) "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) Support brokerage ~~shall~~ will be provided by one of the following:
- (a) An independent provider or an agency provider that:
- (i) Meets the requirements of this rule;
- (ii) Has a medicaid provider agreement with the Ohio department of medicaid;  
and
- (iii) Has completed and submitted an application ~~through the department's website (<http://dodd.ohio.gov>)~~ and adheres to the requirements of as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code.

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- (b) An unpaid volunteer who has the qualifications specified in paragraph (C)(2) of this rule.
- (2) Support brokerage ~~shall~~ will be provided by a person who:
  - (a) Has at least an associate's degree from an accredited college or university or at least two years of experience providing one-to-one support for a person with a developmental disability; and
  - (b) Prior to providing support brokerage, has successfully completed the support broker training established by the department.
- (3) An individual may determine additional qualifications for a provider of support brokerage; additional qualifications determined by the individual ~~shall~~ will be recorded in the individual service plan.
- (4) The following persons or entities shall not provide support brokerage:
  - (a) A county board.
  - (b) An employee of a county board.
  - (c) A housing or adult services nonprofit corporation affiliated with a county board.
  - (d) An employee of a housing or adult services nonprofit corporation affiliated with a county board.
  - (e) A regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.
  - (f) An employee of a regional council of governments formed under section 5126.13 of the Revised Code by two or more county boards.
  - (g) A certified provider of any other self-empowered life funding waiver service.
  - (h) A related entity affiliated with a certified provider of any other self-empowered life funding waiver service including, but not limited to, contractors of the provider.
- (5) Support brokerage shall not be provided on a paid basis by an individual's:
  - (a) Guardian;
  - (b) Spouse;
  - (c) Parent when the individual is less than eighteen years of age; or
  - (d) Family member when the family member resides with the individual.
- (6) Failure to comply with this rule and ~~applicable provisions of rule 5123:2-2-01~~ as

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[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**

Support brokerage ~~shall~~ will be provided pursuant to an individual service plan that conforms to the requirements of rule ~~5123:2-1-11~~ [5123-4-02](#) of the Administrative Code.

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

Service documentation for support brokerage ~~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.
- (10) Number of units of the delivered service or continuous amount of uninterrupted time during which the service was provided.
- (11) Times the delivered service started and stopped.

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

- (1) The billing unit, service codes, and payment rates for support brokerage are contained in the appendix to this rule.
- (2) Payment for support brokerage ~~shall~~ will not exceed eight thousand dollars per waiver eligibility span.

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## **APPENDIX**

### **BILLING UNIT, SERVICE CODES, AND PAYMENT RATES FOR SUPPORT BROKERAGE**

#### **Agency Provider**

Billing Unit: Per hour

Service Code: SSB

Payment Rate: \$38.70

#### **Independent Provider**

Billing Unit: Per hour

Service Code: SSU

Payment Rate: \$23.90