



## Ohio Administrative Code

### Rule 5123-9-13 Home and community-based services waivers - career planning under the individual options, level one, and self-empowered life funding waivers.

Effective: January 1, 2022

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#### (A) Purpose

This rule defines career planning and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The expected outcome of career planning is the individual's achievement of competitive integrated employment and/or career advancement in competitive integrated employment.

#### (B) Definitions

For the purposes of this rule, the following definitions apply:

(1) "Adult day support" has the same meaning as in rule 5123-9-17 of the Administrative Code.

(2) "Agency provider" has the same meaning as in rule 5123-2-08 of the Administrative Code.

(3) "Budget limitation" has the same meaning as in rule 5123-9-19 of the Administrative Code.

(4) "Career planning" means individualized, person-centered, comprehensive employment planning and support that provides assistance for individuals to achieve or advance in competitive integrated employment. Career planning is a focused and time-limited engagement of an individual in identification of a career direction and development of a plan for achieving competitive integrated employment and the supports needed to achieve that employment. Components of career planning include:

(a) Benefits education and analysis. Benefits education and analysis, also known as "work incentives planning," provides information to individuals, families, guardians, advocates, service and support administrators, and educators about the impact of paid employment on a range of public assistance



and benefits programs, including but not limited to supplemental security income, social security disability insurance, medicaid buy-in for workers with disabilities, medicare continuation benefits, veteran's benefits, supplemental nutrition assistance program, and housing assistance. A maximum of four benefits education and analyses may be funded through the individual's waiver in a waiver eligibility span.

(b) Career discovery. Career discovery is an individualized, comprehensive process to help an individual, who is pursuing individualized integrated employment or self-employment, reveal how interests and activities of daily life may be translated into possibilities for integrated employment. Career discovery results in identification of the individual's interests in one or more specific aspects of the job market; the individual's skills, strengths, and other contributions likely to be valuable to employers or valuable to the community if offered through self-employment; and conditions necessary for the individual's successful employment or self-employment. This service culminates in development of a written career discovery profile summarizing the process, revelations, and recommendations for next steps which shall be used to develop the individual's vocational portfolio. A maximum of four career discovery processes may be funded through the individual's waiver in a waiver eligibility span.

(c) Career exploration. Career exploration assists an individual to interact with job holders and observe jobs and job tasks. Career exploration may include informational interviews with and/or shadowing persons who are actually performing the job duties of the identified occupation. When possible, the individual shall be given an opportunity to perform actual job duties as well.

(d) Employment/self-employment plan. Employment/self-employment plan is an individualized service to create a clear plan for employment or the start-up phase of self-employment and includes a planning meeting involving the job seeker and other key people who will be instrumental in supporting the job seeker to become employed in competitive integrated employment. The service may include career advancement planning for individuals who are already employed. This service culminates in development of a written employment plan directly tied to the results of career exploration, if previously authorized, situational observation and assessment, and/or career discovery. For individuals seeking self-employment, this service culminates in development of a self-employment business plan that identifies training and technical assistance needs and potential supports and resources for those services as well as potential sources of business financing given that



medicaid funds may not be used to defray the capital expenses associated with starting a business. A maximum of four employment/self-employment plans may be funded through the individual's waiver in a waiver eligibility span.

(e) Job development. Job development is an individualized service to develop a strategy to achieve competitive integrated employment. The job development strategy shall reflect best practices. The service may include analyzing a job site, identifying necessary accommodations, and negotiating with an employer for customized employment. This service is intended to result in achievement of competitive integrated employment consistent with the job seeker's or job holder's personal and career goals as identified in the individual service plan, as determined through career exploration, situational observation and assessment, career discovery, and/or the employment planning process. This service shall not be provided to an individual on place four of the path to community employment as described in paragraph (D)(2)(a)(iv) of rule 5123:2-2-05 of the Administrative Code.

(f) Self-employment launch. Self-employment launch is support to implement a self-employment business plan and launch a business. This service is intended to result in the achievement of an integrated employment outcome consistent with the job seeker's or job holder's personal and career goals as identified in the individual service plan, as determined through career exploration, situational observation and assessment, career discovery, and/or the employment planning process. This service shall not be provided to an individual on place four of the path to community employment as described in paragraph (D)(2)(a)(iv) of rule 5123:2-2-05 of the Administrative Code.

(g) Situational observation and assessment. Situational observation and assessment is observation and assessment, not to exceed thirty days, of the individual's interpersonal skills, work behaviors, and vocational skills through practical, experiential, community integrated, paid work experiences related to the individual's preferences as established in the individual service plan. Information gathered through situational observation and assessment provides a context to further determine the skills or behaviors to be developed by the individual to ensure his or her success in the individual's preferred work environment. A maximum of four situational observations and assessments may be funded through the individual's waiver in a waiver eligibility span.

(h) Worksite accessibility. Worksite accessibility includes:



(i) Time spent identifying the need for and ensuring the provision of reasonable worksite accommodations that allow the job seeker or job holder to gain, retain, and enhance employment or self-employment; and

(ii) Time spent ensuring the provision of reasonable worksite accommodations through partnership efforts with the employer and, when appropriate, the opportunities for Ohioans with disabilities agency.

(5) "Competitive integrated employment" means work (including self-employment) that is performed on a full-time or part-time basis:

(a) For which an individual is:

(i) Compensated:

(A) At a rate that shall be not less than the higher of the rate specified in the Fair Labor Standards Act of 1938, 29 U.S.C. 206(a)(1), as in effect on the effective date of this rule, or the rate specified in the applicable state or local minimum wage law and is not less than the customary rate paid by the employer for the same or similar work performed by other employees who do not have disabilities, and who are in similar occupations by the same employer and who have similar training, experience, and skills; or

(B) In the case of an individual who is self-employed, yields an income that is comparable to the income received by persons without disabilities, who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(ii) Eligible for the level of benefits provided to other full-time and part-time employees;

(b) At a location where the individual interacts with persons without disabilities to the same extent as employees who are not receiving home and community-based services;

(c) That is not performed in:



- (i) Dispersed enclaves in which individuals work in a self-contained unit within a company or service site in the community or perform multiple jobs in the company, but are not integrated with non-disabled employees of the company; or
- (ii) Mobile work crews comprised solely of individuals operating as a distinct unit and/or self-contained business working in several locations within the community; and
- (d) That, as appropriate, presents opportunities for advancement that are similar to those for persons without disabilities who have similar positions.
- (6) "County board" means a county board of developmental disabilities.
- (7) "Customized employment" means competitive integrated employment designed to meet the specific abilities of an individual with a significant disability and the business needs of an employer that is carried out through flexible strategies such as job exploration by the individual and working with an employer to facilitate placement including:
  - (a) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;
  - (b) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location; and
  - (c) Providing services and supports at the job location.
- (8) "Department" means the Ohio department of developmental disabilities.
- (9) "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 may be added together for the purpose of calculating the number of fifteen-minute billing units for the day.
- (10) "Group employment support" has the same meaning as in rule 5123-9-16 of the Administrative



Code.

(11) "Independent provider" has the same meaning as in rule 5123-2-09 of the Administrative Code.

(12) "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.

(13) "Individual employment support" has the same meaning as in rule 5123-9-15 of the Administrative Code.

(14) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual.

(15) "Mentor" means a person employed by or under contract with the agency provider who has experience providing direct services to persons with developmental disabilities and who is available on a regular basis to provide guidance to new direct support professionals regarding techniques and practices that enhance the effectiveness of the provision of career planning.

(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 5123:2-5-02 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 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.

(18) "Vocational habilitation" has the same meaning as in rule 5123-9-14 of the Administrative Code.

(19) "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) Career planning shall be provided by an agency provider or an independent provider that meets the requirements of this rule and that has a medicaid provider agreement with the Ohio department of medicaid.

(2) An applicant seeking approval to provide career planning shall complete and submit an application through the department's website (<http://dodd.ohio.gov>).

(3) An applicant seeking independent provider certification to provide career planning shall have:

(a) At least one year of full-time (or part-time equivalent), paid work experience related to employment planning and support that assists individuals to achieve competitive integrated employment; or

(b) Thirty hours of formal training related to employment planning and support that assists individuals to achieve competitive integrated employment.

(4) In addition to meeting the requirements set forth in paragraph (C)(3) of this rule, an applicant seeking independent provider certification to provide some components of career planning shall meet additional requirements:

(a) An independent provider of the benefits education and analysis component of career planning shall demonstrate that he or she has successfully completed nationally approved or accredited training in benefits education and analysis.

(b) An independent provider of the worksite accessibility component of career planning shall demonstrate that he or she holds an appropriate license (e.g., occupational therapist) or certification (e.g., certified professional ergonomist issued by the "Board of Certification in Professional Ergonomics"), or has successfully completed appropriate training by an accredited college or university.



(5) An agency provider shall ensure that direct support professionals who provide career planning successfully complete, no later than thirty calendar days after hire, training in:

(a) Services that comprise career planning including the expectation that career planning will eventually lead to competitive integrated employment;

(b) Signs and symptoms of illness or injury and procedure for response;

(c) Building/site-specific emergency response plans; and

(d) Program-specific transportation safety.

(6) An agency provider shall ensure that:

(a) Direct support professionals who perform the benefits education and analysis component of career planning have successfully completed nationally approved or accredited training in benefits education and analysis.

(b) Direct support professionals who perform the worksite accessibility component of career planning hold an appropriate license (e.g., occupational therapist) or certification (e.g., certified professional ergonomist issued by the "Board of Certification in Professional Ergonomics"), or have successfully completed appropriate training by an accredited college or university.

(7) An agency provider shall ensure that direct support professionals who provide career planning (other than those who have at least one year of experience providing career planning at the point of hire), during the first year after hire, are assigned and have access to a mentor.

(8) An agency provider shall ensure that direct support professionals who provide career planning (other than those who have at least one year of experience providing career planning at the point of hire), no later than one year after hire, successfully complete at least eight hours of training specific to the provision of career planning that includes, but is not limited to:



(a) Skill building in advancement of individuals on the path to community employment as described in rule 5123:2-2-05 of the Administrative Code and development of individuals' strengths and skills necessary for competitive integrated employment; and

(b) Self-determination which includes assisting the individual to develop self-advocacy skills, to exercise his or her civil rights, to exercise control and responsibility over the services he or she receives, and to acquire skills that enable him or her to become more independent, productive, and integrated within the community.

(9) 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

(1) The expected outcome of career planning is the individual's achievement of competitive integrated employment and/or career advancement in competitive integrated employment.

(2) The service and support administrator shall ensure that documentation is maintained to demonstrate that the service provided as career planning to an individual enrolled in a waiver is not otherwise available as vocational rehabilitation services funded under section 110 of the Rehabilitation Act of 1973, 29 U.S.C. 730, as in effect on the effective date of this rule, or as special education or related services as those terms are defined in section 602 of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1401, as in effect on the effective date of this rule.

(3) Career planning shall be provided pursuant to a person-centered individual service plan that conforms to the requirements of rules 5123-4-02 and 5123:2-2-05 of the Administrative Code and shall be coordinated with other services and supports set forth in the individual service plan.

(4) Career planning may be provided in a variety of settings but shall not be furnished in the individual's home except when a home visit is conducted as part of the career discovery component of career planning or when the individual is self-employed and the home is the site of self-employment.



- (5) Career planning shall be provided at a ratio of one direct support professional to one individual.
- (6) Career planning services may extend to those times when the individual is not physically present while the provider is performing career planning activities on behalf of the individual.
- (7) A provider of career planning shall complete reports and collect and submit data via the department's employment tracking system in accordance with rule 5123:2-2-05 of the Administrative Code.
- (8) A provider of career planning shall recognize changes in the individual's condition and behavior as well as safety and sanitation hazards, report to the service and support administrator, and record the changes in the individual's written record.
- (E) Documentation of services
- (1) Service documentation for the career exploration, job development, self-employment launch, and worksite accessibility components of career planning shall include each of the following to validate payment for medicaid services:
- (a) Type of service.
  - (b) Date of service.
  - (c) Place of service.
  - (d) Name of individual receiving service.
  - (e) Medicaid identification number of individual receiving service.
  - (f) Name of provider.
  - (g) Provider identifier/contract number.



(h) 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.

(i) 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.

(j) Times the delivered service started and stopped.

(k) Number of units of the delivered service.

(2) Service documentation for the benefits education and analysis, career discovery, employment/self-employment plan, and situational observation and assessment components of career planning shall include each of the following to validate payment for medicaid services:

(a) Type of service.

(b) Date of service.

(c) Place of service.

(d) Name of individual receiving service.

(e) Medicaid identification number of individual receiving service.

(f) Name of provider.

(g) Provider identifier/contract number.

(h) 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.

(i) 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. The description and details of the services delivered shall be sufficient to demonstrate achievement of the desired outcomes in order to serve as the report required for payment for delivery of the services.

(F) Payment standards

(1) The billing units, service codes, and payment rates for career planning are contained in the appendix to this rule.

(2) Payment for adult day support, career planning, group employment support, individual employment support, and vocational habilitation, alone or in combination, shall not exceed the budget limitations contained in appendix B to rule 5123-9-19 of the Administrative Code.

(3) The county board shall authorize payment for the benefits education and analysis, career discovery, employment/self-employment plan, and situational observation and assessment components of career planning within ten calendar days of acceptance of a report required for payment for delivery of services pursuant to paragraph (E)(2)(i) of this rule.

(4) Payment rates for the career exploration, job development, self-employment launch, and worksite accessibility components of career planning shall be modified to reflect the needs of an individual requiring behavioral support upon determination by the department that the individual meets the criteria set forth in paragraph (F)(4)(a) of this rule. The amount of the behavioral support rate modification applied to each fifteen-minute billing unit of service is contained in the appendix to this rule.

(a) The department shall determine that an individual meets the criteria for the behavioral support rate modification when:

(i) The individual has been assessed within the last twelve months to present a danger to self or others or have the potential to present a danger to self or others; and

(ii) A behavioral support strategy that is a component of the individual service plan has been developed in accordance with the requirements in rules established by the department; and



(iii) The individual either:

(A) Has a response of "yes" to at least four items in question thirty-two of the behavioral domain of the Ohio developmental disabilities profile; or

(B) Requires a structured environment that, if removed, will result in the individual's engagement in behavior destructive to self or others.

(b) The duration of the behavioral support rate modification shall be limited to the individual's waiver eligibility span, may be determined needed or no longer needed within that waiver eligibility span, and may be renewed annually.

(c) The purpose of the behavioral support rate modification is to provide funding for the implementation of behavioral support strategies by staff who have the level of training necessary to implement the strategies; the department retains the right to verify that staff who implement behavioral support strategies have received training (e.g., specialized training recommended by clinicians or the team or training regarding an individual's behavioral support strategy) that is adequate to meet the needs of the individuals served.

(5) Payment rates for the career exploration, job development, self-employment launch, and worksite accessibility components of career planning shall be modified to reflect the needs of an individual requiring medical assistance upon determination by the county board that the individual meets the criteria set forth in paragraph (F)(5)(a) of this rule. The amount of the medical assistance rate modification applied to each fifteen-minute billing unit of service is contained in the appendix to this rule.

(a) The county board shall determine that an individual meets the criteria for the medical assistance rate modification when:

(i) The individual requires routine feeding and/or the administration of prescribed medication through gastrostomy and/or jejunostomy tube, and/or requires the administration of routine doses of insulin through subcutaneous injection or insulin pump; or



(ii) The individual requires a nursing procedure or nursing task that a licensed nurse agrees to delegate in accordance with rules in Chapter 4723-13 of the Administrative Code, which is provided in accordance with section 5123.42 of the Revised Code, and when such procedure or nursing task is not the administration of oral prescribed medication, topical prescribed medication, oxygen, or metered dose inhaled medication, or a health-related activity as defined in rule 5123:2-6-01 of the Administrative Code.

(b) The duration of the medical assistance rate modification shall be limited to the individual's waiver eligibility span, may be determined needed or no longer needed within that waiver eligibility span, and may be renewed annually.