



## Ohio Administrative Code

### Rule 5123-9-18 Home and community-based services waivers - non-medical transportation under the individual options, level one, and self-empowered life funding waivers.

Effective: July 16, 2023

---

#### (A) Purpose

This rule defines non-medical 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) "Adult day support" has the same meaning as in rule 5123-9-17 of the Administrative Code.

(2) "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.

(3) "Career planning" has the same meaning as in rule 5123-9-13 of the Administrative Code.

(4) "Commercial transportation" means transportation provided by a public bus transit system, a public light rail transit system, or a taxicab that:

(a) Transports passengers in accordance with an established fare schedule; and

(b) Has auditable records demonstrating that the transportation provided is available to, and used primarily by, the general public (i.e., not solely persons who receive services and supports for persons who are aged, blind, or disabled).

(5) "Commute" means the number of miles driven when one or more individual is riding in a vehicle



while non-medical transportation at the per-mile rate is being provided.

(6) "Competitive integrated employment" has the same meaning as in rule 5123-2-05 of the Administrative Code.

(7) "County board" means a county board of developmental disabilities.

(8) "Department" means the Ohio department of developmental disabilities.

(9) "Group employment support" has the same meaning as in rule 5123-9-16 of the Administrative Code.

(10) "Homemaker/personal care" has the same meaning as in rule 5123-9-30 of the Administrative Code.

(11) "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.

(12) "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.

(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) "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:

(i) Has permanent fasteners to secure a wheelchair to the floor or side of the vehicle to prevent wheelchair movement;

(ii) Has safety harnesses or belts in the vehicle for the purpose of securing individuals in wheelchairs;

(iii) Is equipped with a stable access ramp specifically designed for wheelchairs or a hydraulic lift specifically designed for wheelchairs; and

(iv) Is inspected, on each day the vehicle is used to provide non-medical 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 will be documented by the driver that conducts the inspection.

(16) "Non-medical transportation" means transportation used by an individual to get to, from, between, or among:

(a) A place of employment;

(b) A location where adult day support, career planning, group employment support, individual employment support, or vocational habilitation is provided to the individual;

(c) A volunteer activity;

(d) A post-secondary educational program;

(e) An internship or practicum; and/or



(f) A drop-off or transfer location from which the individual is then transported to or from one of the places specified in paragraphs (B)(16)(a) to (B)(16)(e) of this rule.

(17) "Participant-directed homemaker personal care" has the same meaning as in rule 5123-9-32 of the Administrative Code.

(18) "Passenger" means a traveler in a vehicle who does not participate in operation of the vehicle.

(19) "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.

(20) "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 includes the items delineated in paragraph (H) of this rule to validate payment for medicaid services.

(21) "Taxicab" means a motor vehicle that carries passengers for a fare, and which is licensed or otherwise authorized to operate as a taxicab by a municipality, county, or other local authority.

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

(23) "Volunteer activity" means an activity performed by an individual for which the individual receives no payment.

#### (C) Provider qualifications

(1) Non-medical transportation will be provided by an independent provider, an agency provider, or an operator of commercial transportation 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 non-medical transportation will complete and submit an application through the Ohio department of medicaid provider network management system and adhere to the requirements of as applicable, rule 5123-2-08 or 5123-2-09 of the Administrative Code.

(3) An applicant seeking approval to provide non-medical transportation as an independent provider will present the applicant's driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of application for initial or renewal provider certification. A person having six or more points on the person's driving record is prohibited from providing non-medical transportation.

(4) An independent provider of non-medical transportation will:

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

(b) Have valid liability insurance as specified by Ohio law.

(c) Immediately notify the department, in writing, if the independent provider accumulates six or more points on the independent provider's driving record or has a driver's license suspended or revoked.

(d) Complete testing for controlled substances by a laboratory certified for such testing within thirty-two hours and complete testing for blood alcohol level by an entity certified for such testing within eight hours of a motor vehicle accident involving the driver while the driver was providing non-medical transportation when:

(i) The accident involves the loss of human life; or

(ii) The driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(A) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or



(B) One or more motor vehicles incurred disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(5) An agency provider of non-medical transportation will:

(a) Ensure that each driver holds a valid driver's license as specified by Ohio law.

(b) Ensure that each driver is covered by valid liability insurance as specified by Ohio law.

(c) Obtain, for each driver, a driving record prepared by the bureau of motor vehicles no earlier than fourteen calendar days prior to the date of initial employment as a driver and at least once every three years thereafter. A person having six or more points on the person's driving record is prohibited from providing non-medical transportation.

(d) Require each driver to immediately notify the agency provider, in writing, if the driver accumulates six or more points on the driver's driving record or has a driver's license suspended or revoked.

(e) Ensure that each driver completes testing for controlled substances by a laboratory certified for such testing within thirty-two hours and completes testing for blood alcohol level by an entity certified for such testing within eight hours of a motor vehicle accident involving the driver while the driver was providing non-medical transportation when:

(i) The accident involves the loss of human life; or

(ii) The driver receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(A) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(B) One or more motor vehicles incurred disabling damage as a result of the accident, requiring the



motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(f) Develop and implement written policies and procedures regarding vehicle accessibility, vehicle maintenance, and requirements for vehicle drivers.

(6) An operator of commercial transportation will demonstrate ownership and operation of an enterprise that meets the definition of "commercial transportation" in paragraph (B)(4) of this rule.

(7) Failure of a provider 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) Meeting an individual's needs for non-medical transportation

(1) There are three modes of non-medical transportation:

(a) Non-medical transportation at the per-trip rate;

(b) Non-medical transportation at the per-mile rate; and

(c) Non-medical transportation provided by operators of commercial transportation at the published usual and customary fare.

(2) An individual's non-medical transportation needs may be met through a combination of non-medical transportation at the per-trip rate, non-medical transportation at the per-mile rate, and/or non-medical transportation provided by operators of commercial transportation at the published usual and customary fare. Unless otherwise specified in an individual service plan:

(a) Non-medical transportation at the per-trip rate will be authorized for transporting an individual between the individual's residence and a location specified in paragraphs (B)(16)(a) to (B)(16)(f) of this rule.

(b) Non-medical transportation at the per-mile rate will be authorized for transporting an individual



in circumstances other than circumstances described in paragraph (D)(2)(a) of this rule.

(3) Non-medical transportation will be provided pursuant to an individual service plan that conforms to the requirements of rule 5123-4-02 of the Administrative Code. Whenever possible, family, neighbors, friends, or community agencies that transport people without charge are to be used to meet an individual's needs. An individual's need for non-medical transportation to be provided in a modified vehicle is to be documented in the individual service plan.

(4) The service and support administrator will ensure that a budget limitation for non-medical transportation is determined in accordance with rule 5123-9-19 of the Administrative Code when the need for non-medical transportation has been identified through development of the individual service plan for an individual enrolled in the individual options waiver.

(5) Nothing in this rule will be interpreted to prevent a provider of homemaker/personal care or participant-directed homemaker/personal care from transporting an individual to, from, between, or among the venues described in paragraph (B)(16) of this rule and billing for homemaker/personal care in accordance with rule 5123-9-30 of the Administrative Code or participant-directed homemaker/personal care in accordance with rule 5123-9-32 of the Administrative Code and transportation in accordance with rule 5123-9-24 of the Administrative Code.

(E) Requirements for service delivery of non-medical transportation at the per-trip rate or non-medical transportation at the per-mile rate in a modified vehicle or a vehicle equipped to transport five or more passengers

When a modified vehicle or a vehicle equipped to transport five or more passengers is used for non-medical transportation at the per-trip rate or non-medical transportation at the per-mile rate, the vehicle will:

(1) Be equipped with:

(a) Secure storage space for removable equipment and passenger property;

(b) A communication system, which may include cellular communication, capable of two-way





communication; and

(c) A fire extinguisher and an emergency first-aid kit that are safely secured.

(2) Be inspected, on each day the vehicle is used to provide non-medical transportation, by the first driver of the vehicle and prior to transporting an individual, to ensure the lights, windshield washer/wipers, emergency equipment, mirrors, horn, tires, and brakes are working. The inspection will be documented by the driver that conducts the inspection.

(3) Be inspected and determined to be in good working condition at a frequency of at least once every twelve months by the Ohio state highway patrol safety inspection unit or by a mechanic certified by an automotive dealership or the national institute for automotive service excellence.

(F) Requirements for service delivery of non-medical transportation at the per-trip rate

(1) Individuals must be in the vehicle during the times the provider bills non-medical transportation at the per-trip rate.

(2) A provider will not bill for:

(a) Adult day support, career planning, group employment support, individual employment support, or vocational habilitation during the same time non-medical transportation at the per-trip rate is provided.

(b) Homemaker/personal care or participant-directed homemaker/personal care provided by the driver during the same time non-medical transportation at the per-trip rate is provided.

(G) Requirements for service delivery of non-medical transportation at the per-mile rate

(1) Individuals must be in the vehicle during the times the provider bills non-medical transportation at the per-mile rate except that billing may occur when non-medical transportation is being provided on behalf of an individual who is receiving individual employment support or the job development or worksite accessibility components of career planning.



(2) A provider may bill for:

(a) Adult day support, career planning, group employment support, individual employment support, or vocational habilitation during the same time non-medical transportation at the per-mile rate is provided.

(b) Homemaker/personal care or participant-directed homemaker/personal care provided by the driver during the same time non-medical transportation at the per-mile rate is provided.

(H) Documentation of services

(1) Service documentation for non-medical transportation at the per-trip rate and non-medical transportation at the per-mile rate will include each of the following to validate payment for medicaid services:

(a) Mode of non-medical transportation provided (i.e., per-trip or per-mile).

(b) Date of service.

(c) License plate number of vehicle used to provide 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) Signature of driver of the vehicle or initials of driver of the vehicle if the signature and corresponding initials are on file with the provider.



(i) Names of all passengers, including paid staff and volunteers, who were in the vehicle during any portion of the trip and/or commute.

(j) Times the trip or commute started and stopped.

(2) Service documentation for non-medical transportation at the per-mile rate will include, in addition to the items required in paragraph (H)(1) of this rule, the number of miles in each distinct commute, as indicated by recording beginning and ending odometer readings or via tracking or mapping by a global positioning system.

(3) Service documentation for non-medical transportation by operators of commercial transportation will include each of the following to validate payment for medicaid services:

(a) Mode of non-medical transportation provided (i.e., commercial transportation) and specific type (i.e., by public bus transit system, public light rail transit system, or taxicab).

(b) Date of service or, in the case of a purchase of bus or light rail fares, taxicab tokens, or similar types of travel vouchers to be used on more than one date, date of purchase.

(c) Name of individual receiving service.

(d) Medicaid identification number of individual receiving service.

(e) Name of provider.

(f) Provider identifier/contract number.

(g) Receipt issued by operator of commercial transportation indicating the amount paid.

(I) Payment standards

(1) The billing units, service codes, and payment rates for non-medical transportation are contained in appendix A to this rule.



(2) Payment rates for non-medical transportation at the per-trip rate are established on a per-person basis, irrespective of the number of individuals being transported simultaneously, and based on the county cost-of-doing-business category for the county in which the preponderance of service was provided. The cost-of-doing-business categories are contained in appendix B to this rule.

(3) Payment rates for non-medical transportation at the per-mile rate 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 modified vehicle rate will be applied for each individual being transported when at least one individual requires the use of a modified vehicle, as specified in the individual service plan.

(4) An operator of commercial transportation will be paid its published usual and customary fare which is the same rate charged to the general public as documented by auditable records. The published usual and customary fare will be listed as a rate for a one-way trip and include defined surcharges, if applicable.

(5) Payment for non-medical transportation provided to individuals enrolled in the individual options waiver will not exceed the budget limitations contained in appendix B to rule 5123-9-19 of the Administrative Code.

(J) Transition period for complying with amendments being made to this rule

(1) A provider of non-medical transportation acting as an operator of commercial vehicles described in rule 5123-9-18 of the Administrative Code as it existed on the day immediately prior to the effective date of this rule, that meets the requirements for an operator of commercial transportation in accordance with this rule, will be authorized by the department to provide non-medical transportation as an operator of commercial transportation.

(2) A provider of non-medical transportation acting as an operator of commercial vehicles described in rule 5123-9-18 of the Administrative Code as it existed on the day immediately prior to the effective date of this rule for purposes of transporting individuals to or from competitive integrated employment, that does not meet the requirements for an operator of commercial transportation in



accordance with this rule, will be afforded no less than one year after the effective date of this rule to realign service delivery and billing practices with this rule to be authorized by the department to provide non-medical transportation as an operator of commercial transportation or will be authorized by the department to provide non-medical transportation as either an agency provider or an independent provider, as applicable.

(3) A provider of non-medical transportation acting as an operator of commercial vehicles described in rule 5123-9-18 of the Administrative Code as it existed on the day immediately prior to the effective date of this rule for purposes of transporting individuals to or from a destination described in paragraph (B)(16) of this rule other than competitive integrated employment, that does not meet the requirements for an operator of commercial transportation in accordance with this rule, will be afforded no less than ninety days after the effective date of this rule to realign service delivery and billing practices with this rule to be authorized by the department to provide non-medical transportation as an operator of commercial transportation or will be authorized by the department to provide non-medical transportation as either an agency provider or an independent provider, as applicable.