

**NOTICE OF PUBLIC HEARING**

DATE: October 18, 2024

TIME: 10:00 a.m.

PLACE: Lobby Hearing Room
Rhodes State Office Tower
30 East Broad Street
Columbus, Ohio 43215

Pursuant to Chapter 119. of the Revised Code, the Ohio Department of Developmental Disabilities hereby gives notice of its intent to amend and rescind rules of the Administrative Code on a permanent basis on or about November 28, 2024, and to conduct a public hearing thereon. At this public hearing, the Department will accept verbal and/or written testimony regarding the proposed rule actions.

Persons unable to attend the public hearing may submit written comments. Any written comments received on or before the public hearing date will be treated as testimony and made available for public review. Submittal of written comments may be made to Becky Phillips, Administrative Rules Coordinator, by email to becky.phillips@dodd.ohio.gov or by U.S. mail to 1810 Sullivant Avenue, Columbus, Ohio 43223-1239. Comments regarding rules are public records; persons submitting comments should refrain from including confidential or personal information about themselves or any other person.

The Department is taking actions regarding three administrative rules governing certifications issued to employees of county boards of developmental disabilities:

Rule 5123-5-01 (Adult services certification standards) establishes minimum qualifications through certification standards that apply to persons, directly providing or supervising the provision of adult services, who are employed by county boards of developmental disabilities. The rule is being rescinded in accordance with [House Bill 509](#) of the 134th General Assembly which requires elimination of Adult Services certification by December 31, 2024.

Rule 5123-5-03 (Superintendent certification standards) establishes minimum qualifications through certification standards for Superintendents of county boards of developmental disabilities. The rule is due for five-year review. Based on a comprehensive review, the rule is being amended to update wording regarding renewal of expired certification and align wording with newer rules.

Rule 5123-5-04 (Denial, suspension, and revocation of adult services, business manager, and service and support administration) establishes the grounds and procedure for Superintendents of county boards of developmental disabilities to deny, suspend, and revoke Adult Services, Business Manager, and Service and Support Administration registration and certification issued in accordance with section 5126.25 of the Revised Code. The rule is being amended to eliminate references to Adult Services certification and registration which is being eliminated by December 31, 2024 in accordance with House Bill 509 of the 134th General Assembly.

The Department is amending seven rules governing Home and Community-Based Services (HCBS) waivers that are due for five-year review:

Rule 5123-9-23 (HCBS waivers - environmental accessibility adaptations under the individual options and level one waivers) defines Environmental Accessibility Adaptations and sets forth provider qualifications,

requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Eliminate paragraph (B)(9) because "waiver eligibility span" is not otherwise used in the rule.
- Eliminate paragraph (C)(2) because county boards of developmental disabilities are no longer permitted to directly provide HCBS.
- Add new paragraph (D)(3) to clarify, as directed by the federal Centers for Medicare and Medicaid Services, that Environmental Accessibility Adaptations may be authorized for up to 180 days prior to an individual's move from an institutional setting.
- Revise paragraph (F)(3) and add new paragraph (F)(4) to clarify, as directed by the federal Centers for Medicare and Medicaid Services, responsibility for ensuring an individual's health and welfare needs are met when the cost of needed Environmental Accessibility Adaptations exceeds \$10,000 per project.

Rule 5123-9-41 (HCBS waivers - clinical/therapeutic intervention under the level one and self-empowered life funding waivers) defines Clinical/Therapeutic Intervention and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Eliminate paragraph (B)(11) because "waiver eligibility span" is not otherwise used in the rule.
- Eliminate paragraph (C)(3) because county boards of developmental disabilities are no longer permitted to directly provide HCBS.

Rule 5123-9-43 (HCBS waivers - functional behavioral assessment under the level one and self-empowered life funding waivers) defines Functional Behavioral Assessment and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Eliminate paragraph (C)(3) because county boards of developmental

disabilities are no longer permitted to directly provide HCBS.

Rule 5123-9-45 (HCBS waivers - participant-directed goods and services under the level one and self-empowered life funding waivers) defines Participant-Directed Goods and Services and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Make clear in paragraph (B)(8)(a) that only one objective on a list of six must be met.
- Revise paragraph (B)(8)(c).
- Update citations to the Administrative Code.

Rule 5123-9-46 (HCBS waivers - participant/family stability assistance under the level one and self-empowered life funding waivers) defines Participant/Family Stability Assistance and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Eliminate paragraphs (C)(3) and (D)(3) because county boards of developmental disabilities are no longer permitted to directly provide HCBS.

Rule 5123-9-47 (HCBS waivers - support brokerage under the self-empowered life funding waiver) defines Support Brokerage and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Update citations to the Administrative Code.
- Add paragraph (B)(8) to define "participant direction."

Rule 5123-9-48 (HCBS waivers - community transition under the individual

options waiver) defines Community Transition and sets forth provider qualifications, requirements for service delivery and documentation of services, and payment standards for the service. The rule is being amended to:

- Align wording with newer rules.
- Eliminate paragraph (B)(5) because "independent provider" is not otherwise used in the rule.
- Eliminate paragraph (C)(4) as it is no longer necessary based on revisions made to paragraph (C)(1).

The rules are available for review at the [Register of Ohio](#) and at the [Department's website](#). The rules are also available for review at each county board of developmental disabilities.

The Department is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act and other applicable laws. To request a reasonable accommodation due to a disability, please contact Becky Phillips, Administrative Rules Coordinator, no later than October 4, 2024, by email to becky.phillips@dodd.ohio.gov or by telephone (614-644-7393 / TTY 711).

Please note that visitors to the Rhodes State Office Tower must enter the building through the Broad Street lobby. Visitors will be required to register at the security desk by showing government-issued photo identification and pass through a magnetometer. Visitors' belongings, such as purses and backpacks, are subject to inspection.