



**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)
Clearance Period: February 9-24, 2023**

Comment	By Whom	Department's Response
<p>County boards of developmental disabilities appreciate the proposed language clearly defining commercial transportation to mean various modes with established rate schedules. In addition, county boards appreciate that the rule identifies clear expectations that a commercial provider must be able to fulfill as boards plan for individuals' transportation needs within the individual service planning process.</p> <p>To further clarify the language regarding usual and customary fares, as well as to set better expectations for commercial transportation providers, county boards of developmental disabilities suggest the following be added to the rule (suggested changes underlined):</p> <p>(D)(1)(c): Non-medical transportation provided by operators of commercial transportation at the <u>published</u> usual and customary fare.</p> <p>(D)(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 <u>published</u> usual and customary fare.</p> <p>(I)(4): Operators of commercial transportation will be paid their <u>published</u> usual customary rates which are the same rates charged to the general public as documented by auditable records. <u>Published usual and customary rates will be listed as a rate for a one-way trip that will also include defined surcharges, if applicable.</u></p> <p>Appendix A: Non-Medical Transportation by Operators of Commercial Transportation</p> <p>Payment Rate: <u>Published</u> usual and customary fare which is the same rate charged to the general public as documented by auditable records. <u>Published usual and customary rates will be listed as a rate for a one-way trip that will also include defined surcharges, if applicable.</u></p>	<p>Monica Juenger, Chief Policy Officer, Ohio Association of County Boards of Developmental Disabilities</p>	<p>Thank you for your support. The clarifying language you suggested was incorporated into the rule.</p>

<p>As supporters of competitive integrated employment and community integration services, the Ohio Provider Resource Association (OPRA) has serious concerns about the proposed changes to the Non-Medical Transportation rule and the impact it would have on the people with disabilities our members support in the community. OPRA has a small handful of provider members who currently provide transportation services as a "commercial" provider. But that small handful of providers supports hundreds of Ohioans with disabilities to be able to get to and from their place of employment in the community. Often times these services are provided at the request of local transportation authorities who do not have the capacity or resources to serve people with developmental disabilities as part of their operations. If these proposed changes go through, the immediate impact would be the loss of access to employment and other community support and activities for hundreds of people.</p> <p>From 2018-2019, a stakeholder workgroup examined our Non-Medical Transportation rules and made recommendations, adopted by the Department in 2020. As part of this process, we examined the "commercial" requirements and as a collective stakeholder group did not recommend similar changes, due to the impact it would have on so many people who rely on this service to access their jobs in the community. We believe if the Department is to make changes to this section of rule, they convene stakeholders and those who receive and rely on this service to help direct any potential changes.</p> <p>Our system's standard Non-Medical Transportation rates are not sufficient, nor were they designed to be, for transporting a single person to a job in the community. The rates are designed to accommodate multiple passengers being transported to a group service location. Using a rate that is designed to be multiplied across multiple people to transport a single person to work is not feasible or sustainable, thus why some providers have utilized the commercial transportation option to provide this extremely valuable service. If the proposed rule changes are adopted, the impact will be felt immediately by workers with disabilities who will lose access to their community job.</p> <p>Again, we encourage the Department to rescind this rule and engage a meaningful stakeholder process on any potential changes to transportation access. However, if the Department is intent on these changes, we also offer another proposal. We hope the Department may consider adopting rule changes that allow providers to bill a usual customary rate when transporting someone to a community job, post-secondary education, or volunteering opportunity in the community. We believe this approach would satisfy the Department's intent to clarify the definition of a commercial provider, while still maintaining and expanding capacity for community employment services. As an Employment First state, we all recognize transportation as one of the biggest barriers to employment for people with disabilities. The current rule proposal only exacerbates that challenge and makes it harder for people to find transportation providers to meet their needs. Our compromise approach would allow providers to truly capture the costs associated with single-rider trips, expanding capacity and opportunities for people to access community employment.</p>	<p>Scott Marks, Vice President, Ohio Provider Resource Association</p>	<p>Thank you for your comments. Providers that have been billing as "commercial" providers but who do not meet the clarified definition may continue to bill for Non-Medical Transportation at the per-trip and/or per-mile rates.</p> <p>We support your suggestion to develop a new rate specifically for transporting an individual to and from competitive integrated employment. We will engage with stakeholders in this discussion as we move forward to clarify the commercial transportation definition. Based on timelines for submission of necessary waiver amendments, however, a new rate cannot be established until calendar year 2024.</p> <p>To address your concerns in the interim, paragraph (J) of the rule was revised as indicated to permit providers that have been billing a commercial usual and customary fare for transporting individuals to and from competitive integrated employment will be permitted to continue to bill their established usual and customary fare until a new rate is in effect.</p> <p>(J) Transition period for complying with amendments made to this rule</p> <p>(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.</p> <p>(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 independent provider, as applicable.</p> <p>(2) (3) A provider of non-medical transportation acting as an operator of commercial vehicles described in rule</p>
---	--	---

Comment	By Whom	Department's Response
		<p>5123-9-18 of the Administrative Code as it existed on the day immediately prior to the effective date of this rule <u>for purposes of transporting individuals to or from a destination described in paragraph (B)(16) of this rule other than competitive integrated employment</u>, that does not meet the requirements for an operator of commercial transportation in accordance with this rule, will be afforded <u>no less than</u> 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 independent provider, as applicable.</p>