

Rule Summary and Fiscal Analysis (Part A)**Department of Developmental Disabilities**

Agency Name

Community Services

Division

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5123:2-7-08

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Intermediate care facilities for individuals with intellectual disabilities - bed-hold days.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **5123.04, 5124.02, 5124.03, 5124.34, 5164.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5123.04, 5124.02, 5124.03, 5124.34, 5164.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Department is rescinding the existing rule and bringing forth a new replacement rule of the same number.
7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule establishes requirements and procedures for an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICFIID) to be reimbursed for reserving a bed for a resident who is temporarily absent.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Paragraph (A) revised from:

This rule establishes requirements and procedures for an ICFIID to be reimbursed for reserving a bed for a resident who is temporarily absent.

to:

This rule establishes requirements and procedures for an intermediate care facility for individuals with intellectual disabilities (ICFIID) to be reimbursed for reserving

a bed for a resident who is temporarily absent.

Paragraph (B)(2) revised from:

"Bed-hold day" means a day for which a bed is reserved for a resident of an ICFIID through medicaid reimbursement while the resident is temporarily absent from the ICFIID for hospitalization, therapeutic leave, or a visit with friends or relatives. Reimbursement for bed-hold days may be made only if the resident has the intent and ability to return to the same ICFIID. A resident on bed-hold day status is not considered discharged because the ICFIID is reimbursed to hold the bed while the resident is on temporary leave.

to:

"Bed-hold day" means a day for which a bed is reserved for a resident of an ICFIID through medicaid reimbursement while the resident is temporarily absent from the ICFIID for hospitalization, therapeutic leave, or a visit with friends or relatives. Reimbursement for bed-hold days may be made only if the resident has the intent and ability or may have cause to return to the same ICFIID. A resident on bed-hold day status is not considered discharged because the ICFIID is reimbursed to hold the bed while the resident is on temporary leave.

Eliminated former paragraph (B)(9):

"ICFIID" means an intermediate care facility for individuals with intellectual disabilities.

Paragraph (B)(13) revised from:

"Therapeutic leave" means a resident is temporarily absent from an ICFIID, and is in a residential setting other than a long-term care facility, hospital, or other entity eligible to receive federal, state, or county funds to maintain a resident, for the purpose of receiving a regimen of therapeutic services.

to:

"Therapeutic leave" means a resident is temporarily absent from an ICFIID, and is in a residential setting other than a long-term care facility, hospital, or other entity eligible to receive federal, state, or county funds to maintain a resident, for the purpose of receiving a regimen of therapeutic services or visiting a potential new residential setting.

Paragraph (D)(1) revised from:

For a medicaid-eligible resident of an ICFIID, except those excluded in accordance with paragraph (H) of this rule, the department may reimburse the ICFIID to reserve a bed only for as long as the resident has a developmental disabilities level of care determination and intends to return to the same ICFIID, but not for more

than thirty days in any calendar year unless additional days have been prior-authorized by the department in accordance with paragraph (E) of this rule.

to:

For a medicaid-eligible resident of an ICFIID, except those excluded in accordance with paragraph (H) of this rule, the department may reimburse the ICFIID to reserve a bed only for as long as the resident has a developmental disabilities level of care determination and intends or may have cause to return to the same ICFIID, but not for more than thirty days in any calendar year unless additional days have been authorized by the department in accordance with paragraph (E) of this rule.

Paragraph (D)(3)(b)(i) revised from:

A plan to use bed-hold days for therapeutic leave must be approved in advance by the resident's primary physician and documented in the resident's medical record. The documentation shall be available for viewing by the department.

to:

A plan to use bed-hold days for therapeutic leave for the purpose of receiving a regimen of therapeutic services must be approved in advance by the resident's primary physician and documented in the resident's medical record. The documentation shall be available for viewing by the department.

Added new paragraph (D)(3)(b)(ii):

A plan to use bed-hold days for therapeutic leave for the purpose of visiting a potential new residential setting must be approved in advance by the resident's primary physician or a qualified intellectual disability professional and documented in the resident's medical record or individual plan. The documentation shall be available for viewing by the department.

Paragraph (E)(1) revised from:

Additional bed-hold days beyond the original thirty days in a calendar year require prior authorization. A maximum of thirty additional consecutive bed-hold days may be authorized per request.

to:

Additional bed-hold days beyond the original thirty days in a calendar year require prior authorization except in the event of emergency hospitalization. In the event of emergency hospitalization, authorization may be requested after the fact if the request is submitted within one business day of the first day of hospitalization. A maximum of thirty additional consecutive bed-hold days may be authorized per request.

Paragraph (E)(2) revised from:

An ICFIID shall submit a request for prior authorization for bed-hold days to the department electronically via the department's website. The request shall be signed by a qualified intellectual disability professional, a resident's primary physician, or a medical director. The request shall be consistent with the goals of the resident's individual plan and medical records, and shall include:

to:

An ICFIID shall submit a request for authorization for additional bed-hold days to the department electronically via the department's website. The request shall be consistent with the goals of the resident's individual plan and medical records, and shall include:

Paragraph (E)(2)(a) revised from:

Type of leave requested (i.e., hospitalization, therapeutic leave, or visit with friends or relatives);

to:

Reason for bed-hold days (i.e., hospitalization, therapeutic leave, or visit with friends or relatives);

Eliminated former paragraph (E)(3):

The request for additional bed-hold days shall be submitted to the department prior to the requested date of additional bed-hold days, except in the event of emergency hospitalization. In the event of emergency hospitalization, prior authorization may be requested after the fact if the request is submitted within one business day of the first day of hospitalization.

Paragraph (E)(3) revised from:

The department shall review the request for additional bed-hold days and send notice within five business days of approval or denial to the individual, the individual's parent, the individual's guardian, or other person whom the individual has identified, as applicable, and the ICFIID.

to:

The department shall review the request for additional bed-hold days and send notice within five business days of approval or denial to the ICFIID.

Paragraph (H)(5) revised from:

Relocating due to anticipated closure of an ICFIID, an ICFIID's voluntary withdrawal from participation in the medicaid program, or other events that result

in termination of an ICFIID's medicaid provider agreement. No span of bed-hold days shall be approved that ends on an ICFIID's date of closure or termination from participation in the medicaid program.

to:

Relocating due to anticipated closure of an ICFIID, an ICFIID's voluntary withdrawal from participation in the medicaid program, or other events that result in termination of an ICFIID's medicaid provider agreement except when the ICFIID becomes a downsized ICFIID as defined in section 5124.01 of the Revised Code or converts beds from ICFIID services to home and community-based services in accordance with section 5124.60 or 5124.61 of the Revised Code. No span of bed-hold days shall be approved that ends on an ICFIID's date of closure or termination from participation in the medicaid program.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$ 0

Rescinding the existing rule and bringing forth a new replacement rule will neither increase nor decrease revenues or expenditures for the Department.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

653407

653606

653653

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The existing rule requires an ICFIID to obtain prior authorization from the county department of job and family services for bed-hold days in excess of 30 per resident per calendar year. Obtaining prior authorization from the Department instead of from the county department of job and family services is not expected to have any additional costs of compliance. Department staff estimate that submitting a request for prior authorization takes, on average, less than one-half hour of ICFIID staff time per request.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Paragraph (E): An ICFIID must obtain prior authorization from the Department for bed-hold days in excess of 30 per resident per calendar year.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Paragraph (E)(7): Bed-hold days used without prior authorization may result in an adjustment to the ICFIID's reimbursement.

C.) Does this rule require specific expenditures or the report of information as a

condition of compliance? **Yes**

Paragraph (E)(2): Securing prior authorization for bed-hold days requires an ICFIID to submit a request with supporting documentation.