

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5123-7-33

Rule Type: Amendment

Rule Title/Tagline: Intermediate care facilities for individuals with intellectual disabilities
- resident assessment classification system based on administration of
the Ohio developmental disabilities profile.

Agency Name: Department of Developmental Disabilities

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 4/12/2024
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 5123.04, 5124.03, 5124.192, 5124.193
5. What statute(s) does the rule implement or amplify? 5123.04, 5124.03, 5124.19 to 5124.193
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

The Department is amending the rule based on the five-year review.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

The rule sets forth a method and process for determining the per resident/per day rate paid to an intermediate care facility for individuals with intellectual disabilities (ICFIID) for direct care costs using the Ohio developmental disabilities profile pursuant to sections 5124.19 to 5124.193 of the Revised Code. Based on the five-year review, the rule is being amended to:

- Eliminate the definition of "individual assessment form" as the term is no longer used.
- Add "Peer group 6," created by House Bill 33 of the 135th General Assembly, to paragraph (B)(8).
- Eliminate paragraph (C) because it describes a process that was in effect for three years during 2019 to 2022.
- Update a citation to the Administrative Code.
- Eliminate regulatory restrictions.

9. Does the rule incorporate material by reference? Yes

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

The incorporated references are to the Revised Code and the Administrative Code. Pursuant to Section 121.75 of the Revised Code, the requirements in Sections 121.71 to 121.74 do not apply. The Revised Code and the Administrative Code are available at libraries and on the internet at <https://codes.ohio.gov>. The Department's administrative rules are also available at <https://dodd.ohio.gov/forms-and-rules/rules-in-effect/administrative-rules-list>.

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

\$ 0

The amendments being made to the rule will neither increase nor decrease revenues or expenditures of the Department.

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

The rule describes the method the Department will use to calculate an ICFIID's per resident/per day rate for direct care costs. An ICFIID may be required to correct a facility level error. Correcting facility level errors will consume staff resources, the cost of which will vary by ICFIID based on the nature of the error and staff wages.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

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)(3) allows the Department to assign a lower case mix score to an ICFIID that does not timely correct facility level errors.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

The rule requires an ICFIID to submit resident assessment data to the Department.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

- A. How many new regulatory restrictions do you propose adding to this rule? 0
- B. How many existing regulatory restrictions do you propose removing from this rule? 22

5123-7-33 (B): For the purposes of this rule, the following definitions shall apply:

5123-7-33 (C): For a period of three years commencing on the effective date of this rule, the department shall calculate for each eligible ICFIID, two separate per resident/per day rates for direct care costs using data from:

5123-7-33 (D)(1): The department shall use the resident assessment classification system to classify residents of an ICFIID based on the data from the Ohio developmental disabilities profile.

5123-7-33 (D)(2): The department shall calculate a resident's assessment score for each of the medical, behavioral, and adaptive skills domains and assign points:

5123-7-33 (D)(3): The department shall determine the weighted sum of the points assigned in accordance with paragraph (D)(2) of this rule to each of the resident's domain assessment scores and round the weighted sum to the nearest whole number:

5123-7-33 (D)(3)(a): Points assigned to the resident's assessment score for the medical domain shall be weighted at thirty-five per cent;

5123-7-33 (D)(3)(b): Points assigned to the resident's assessment score for the behavioral domain shall be weighted at thirty per cent; and

5123-7-33 (D)(3)(c): Points assigned to the resident's assessment score for the adaptive skills domain shall be weighted at thirty-five per cent.

5123-7-33 (D)(4): The department shall place the resident into an acuity group:

5123-7-33 (E)(3)(a): When recalibrating the relative resource weights, the department shall use cost report wage data from the most recent three calendar years available ninety calendar days prior to the start of the fiscal year.

5123-7-33 (E)(3)(d): After recalibrating or rebasing relative resource weights in accordance with paragraph (E)(3)(a), (E)(3)(b), or (E)(3)(c) of this rule, the department shall use the recalibrated or rebased relative resource weights to recalculate the annual facility average case mix score for the calendar year preceding the fiscal year.

5123-7-33 (F)(1): The department shall establish each ICFIID's rate for direct care costs annually pursuant to sections 5124.19 to 5124.193 of the Revised Code.

5123-7-33 (F)(1): To set the rate, the department shall:

5123-7-33 (F)(1)(b): Multiply the lesser of the ICFIID's cost per case mix unit or the maximum cost per case mix unit for the ICFIID's peer group determined pursuant to division (C) of section 5124.19 of the Revised Code by the ICFIID's case mix score for the calendar quarter ending March thirty-first of the calendar year in which the fiscal year for which the rate is set begins, except that for fiscal year 2019, the department shall use the ICFIID's case mix score for the quarter that ends December 31, 2017; and

5123-7-33 (F)(3): The department shall assign a quarterly facility average case mix score or cost per case mix unit used to establish an ICFIID's rate for direct care costs if the ICFIID fails to correct facility level errors.

5123-7-33 (F)(3): Before taking such action, the department shall permit the ICFIID a reasonable period of time to correct the information, in accordance with rule 5123:2-7-32 of the Administrative Code.

5123-7-33 (F)(3)(a): If the ICFIID was assigned a quarterly facility average case mix score for the preceding calendar quarter, the assigned quarterly facility

average case mix score shall be the score that is five per cent less than that score assigned for the preceding quarter.

5123-7-33 (G)(1): Ohio developmental disabilities profile data for all four quarters of the calendar year shall be used to calculate the annual facility average case mix score:

5123-7-33 (G)(1)(a): The department-assigned facility average case mix scores shall be omitted from the ICFIID's annual average case mix score calculation.

5123-7-33 (G)(1)(b): The annual facility average case mix score shall be calculated from no fewer than two acceptable quarterly facility average case mix scores.

5123-7-33 (G)(1)(b): Acceptable quarterly facility average case mix scores shall be summed and divided by the total number of quarters of acceptable scores.

5123-7-33 (G)(2): If at least two acceptable quarterly facility average case mix scores are not available, the department shall assign the cost per case mix unit in accordance with paragraph (F)(3)(b) of this rule.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable