

## TO BE RESCINDED

5123:2-7-29 **Intermediate care facilities - outlier services for pediatric ventilator services.**

(A) Purpose

The purpose of this rule is to identify a subpopulation of persons determined to require an intermediate care facility level of care whose care needs are not adequately measured by the individual assessment form or by the resident assessment classification and case mix payment system described in rule 5123:2-7-20 of the Administrative Code.

(B) For the purposes of this rule, the following definitions shall apply:

- (1) "Designated outlier coordinator" means a designated department staff member who coordinates the general operations of the intermediate care facility outlier program. The designated outlier coordinator works with providers of outlier services, individuals and other persons whom individuals have identified requesting and receiving outlier services, other service agencies, and other department staff. The designated outlier coordinator's duties include, but are not limited to:
  - (a) Assisting with the initial approval and ongoing monitoring of intermediate care facilities providing outlier services;
  - (b) Coordinating the processing of pre-admission and continued stay prior authorization requests for individuals; and
  - (c) Reviewing assessments, individual plans, day programming plans, staffing plans, and other documents.
- (2) "Individual plan" means a written description of the services to be provided to an individual, developed by an interdisciplinary team that represents the professions, disciplines, or service areas that are relevant to identifying the individual's needs, as described by the comprehensive functional assessments.
- (3) "Intermediate care facility for pediatric ventilator services" means a facility that holds an effective intermediate care facility provider agreement with the Ohio department of medicaid and that is approved by the department to deliver outlier services to individuals under twenty-two years of age who are dependent on invasive mechanical ventilators.
- (4) "Invasive mechanical ventilator" means a ventilator that is interfaced directly

with the individual via an artificial airway (e.g., tracheostomy tube). Invasive mechanical ventilators (volume and/or pressure) are life support devices designed specifically for invasive mechanical ventilation applications and must accommodate direct current backup power supply and include disconnect, high pressure, low pressure, and power loss alarms.

- (5) "Level of care review" means the evaluation of an individual's physical, mental, and social/emotional status to determine the level of care required to meet the individual's service needs and includes activities necessary to safeguard against unnecessary utilization. Level of care determinations are based upon the criteria regarding the amount and type of services needed by an individual that are set forth in Chapter 5101:3-3 of the Administrative Code.
- (6) "Outlier services" means those clusters of services that have been determined by the department to require reimbursement rates established pursuant to section 5124.152 of the Revised Code when delivered by qualified providers to individuals who have been prior-authorized for the receipt of a category of service identified as an outlier service by the department as set forth in Chapter 5123:2-7 of the Administrative Code.
- (7) "Physician" means a doctor of medicine or osteopathy who is licensed to practice medicine.
- (8) "Plan of correction" means a corrective action plan prepared by an intermediate care facility in response to deficiencies cited by the department or the Ohio department of health. The plan shall conform to regulations and guidelines, and shall include information that describes how the deficiency will be corrected, when it will be corrected, how other residents that may be affected by the deficiency will be identified, and how the facility will ensure that compliance will be maintained upon correction.
- (9) "Prior authorization assessment for intermediate care facility pediatric ventilator services" means an evaluation to determine if an individual meets the criteria to be served by an intermediate care facility for pediatric ventilator services as outlined in paragraphs (C)(3) to (C)(7) of this rule, and shall take place only after the individual is determined to meet the financial eligibility and level of care requirements set forth in paragraphs (C)(1) and (C)(2) of this rule.
- (10) "Prior authorization for intermediate care facility pediatric ventilator services" means department approval obtained by an intermediate care facility for pediatric ventilator services on behalf of a specific individual for specific time-limited initial or continued stay periods at the intermediate care facility

for pediatric ventilator services. Prior authorization for intermediate care facility pediatric ventilator services shall be required for the provider to be authorized by the department to receive reimbursement for services rendered to the individual. Reimbursement may be denied for any service not rendered in accordance with Chapters 5101:3-3 and 5123:2-7 of the Administrative Code.

- (a) Initial prior authorization for intermediate care facility pediatric ventilator services.

Unless the individual is seeking a change of payer, the prior authorization for intermediate care facility pediatric ventilator services shall occur prior to admission to the intermediate care facility for pediatric ventilator services.

- (b) Continued stay prior authorization for intermediate care facility pediatric ventilator services.

In the case of requests for continued stay, the prior authorization for intermediate care facility pediatric ventilator services shall occur no later than the final day of the previously authorized intermediate care facility for pediatric ventilator services stay.

(C) Individual eligibility criteria

To receive prior authorization for intermediate care facility pediatric ventilator services, an individual shall meet all the following criteria:

- (1) Financial eligibility

The individual shall have been determined by the county department of job and family services to meet the medicaid financial eligibility standards for institutional care.

- (2) Level of care determination

The individual shall have obtained a level of care determination from the department within the last thirty days, or, at the time of prior authorization assessment for intermediate care facility pediatric ventilator services, be determined by the department to meet the criteria for a level of care as set forth in rule 5101:3-3-07 of the Administrative Code.

- (3) Age

The individual shall be under twenty-two years of age.

(4) Need for services

The individual shall have a complex medical condition requiring the use of an invasive mechanical ventilator.

(5) Currently receiving services

The individual shall meet one of the following criteria:

- (a) The individual shall have been an inpatient, for at least ninety days within the past twelve months, in an acute care hospital for treatment of a life-threatening or complex medical condition and has needs, specifically including invasive mechanical ventilation, that cannot be met by services available in a non-institutional setting; or
- (b) The individual resides at an intermediate care facility on the effective date of this rule and has needs, specifically including invasive mechanical ventilation, that cannot be met by services available in a non-institutional setting.

(6) Physician services

The individual's medical condition must have stabilized so that the immediate services of an acute care hospital, including daily physician visits, are not medically necessary.

(7) Nursing services

The individual shall require monitoring by a nurse twenty-four hours per day and professional assessment by a registered nurse on a daily basis.

(D) Provider eligibility criteria

Prior to enrollment as an intermediate care facility for pediatric ventilator services, and at regular intervals thereafter, the department shall determine whether the intermediate care facility for pediatric ventilator services provider qualifications are fulfilled through review of documentation of appropriate policies and procedures, on-site visits, and other mechanisms. In order to be approved as an intermediate care facility for pediatric ventilator services and qualify for enhanced payment for provision of intermediate care facility pediatric ventilator services to prior-authorized individuals, a provider shall meet all of the following criteria:

(1) Certified intermediate care facility and consent to oversight

The provider shall be an Ohio medicaid certified intermediate care facility and shall agree to cooperate with the department's oversight of intermediate care facility pediatric ventilator services.

(2) Intermediate care facility provider agreement

The provider shall meet the requirements set forth in rule 5123:2-7-02 of the Administrative Code in order to obtain a provider agreement.

(3) Licensure survey findings

Prior to approval by the department as a provider of intermediate care facility pediatric ventilator services, the provider shall:

- (a) Be in full compliance with residential facility licensure standards; or
- (b) Have an approved and implemented plan of correction and have not demonstrated a pattern of repeat deficiencies.

(4) Certification survey findings

Prior to approval by the department as a provider of intermediate care facility pediatric ventilator services, the provider shall:

- (a) Fully meet all standards for medicaid intermediate care facility certification; or
- (b) Meet the medicaid program requirements of a facility for which the Ohio department of health found deficiencies, have an approved and implemented plan of correction, and have not demonstrated a pattern of repeat deficiencies.

(5) Emergency needs

- (a) The intermediate care facility shall have an emergency action plan in place in the event of a power failure.
- (b) The intermediate care facility shall have on-site backup generator service for all equipment including suction lines, oxygen lines, and emergency

power to ventilators.

- (c) The intermediate care facility shall have sufficient backup ventilators on-site and available in the event of mechanical failure as well as any other equipment necessary to meet the needs of individuals in the event of an emergency.
- (d) The intermediate care facility shall have an emergency response plan in place in the event of natural or human-made disasters that provides for the safe transport of individuals to a safe area with appropriate resources available to ensure the health and safety of the individuals.

(6) Facility staffing

- (a) Availability of direct care staff.

Providers shall schedule direct care staff to ensure that adequately trained staff are present and on duty seven days per week, twenty-four hours per day, every day of the year. Staffing shall be sufficient to ensure that urgent, emergent, and routine resident needs are identified appropriately and in a timely manner and are met through the implementation of intervention strategies reflected in the resident's individual plan. Absences of staff for breaks and meals shall not compromise this requirement.

- (b) Management experience.

Staff who manage intermediate care facility pediatric ventilator services shall have evidence of at least two years of work experience with individuals who have complex medical conditions.

- (c) Staff training.

Staff training programs shall address the specific medical domains a staff member must master for a thorough understanding and demonstration of competency in order to meet the specialized needs of residents requiring intermediate care facility pediatric ventilator services. Initial and continuing direct care staff training shall include all of the following:

- (i) Orientation to the facility's status as a provider of intermediate care facility pediatric ventilator services, including the individual eligibility criteria outlined in paragraph (C) of this rule and the

provider eligibility criteria outlined in paragraph (D) of this rule;

- (ii) Information about the disorders and diseases affecting the current residents of the intermediate care facility pediatric ventilator services provider;
- (iii) Accepted best practices and innovative approaches to meet residents' needs;
- (iv) Training to ensure nursing care competence for patients under twenty-two years of age, including specialized training on developmental needs that improve an individual's overall functional status; and
- (v) Due to the increased risk of infection for residents of intermediate care facilities for pediatric ventilator services, staff training shall include steps to be taken to minimize risk of transmission of contagious or infectious diseases.

(7) Service delivery

The provider shall agree to furnish or arrange to have furnished all medically necessary services to individuals who are dependent on invasive mechanical ventilators, regardless of whether the services are reimbursable through the intermediate care facility cost report mechanism or directly to the provider of such services.

- (a) The facility shall ensure that physician services are available twenty-four hours per day.
- (b) A physician shall complete an assessment of the individual at least once every thirty days for the first ninety days and at least once every ninety days thereafter if the individual maintains a stable status with no acute complications related to ventilator support. If acute care needs requiring hospitalization present upon return to the intermediate care facility for pediatric ventilator services, a physician shall complete an assessment of the individual at least once every thirty days for the first ninety days and at least once every ninety days thereafter.
- (c) The facility shall ensure that licensed respiratory care practitioner services are available twenty-four hours per day. Medically necessary respiratory care services shall be provided by a licensed respiratory care practitioner and/or by a nurse, who the facility has determined has the

training, knowledge, skill, and ability to complete the services in coordination with the licensed respiratory care practitioner, and as ordered by a physician.

- (d) The facility, in consultation with a physician and a licensed respiratory care practitioner, shall develop a facility plan for providing care to individuals who are dependent on invasive mechanical ventilators. The plan shall address maintenance of ventilators, required modification and maintenance of facilities, and special accommodations required to ensure that all needs, including but not limited to, hygiene, bathing, dietary, social, and transportation, of individuals who are dependent on invasive mechanical ventilators, are met.
- (e) The facility shall ensure that registered nursing services are available twenty-four hours per day.
- (f) Nursing care and any personal care that may be required for the health, safety, and wellbeing of the individuals served shall be available twenty-four hours per day. Nursing personnel shall be sufficient to ensure prompt recognition of any adverse change in an individual's condition and to facilitate nursing, medical, or other appropriate interventions, up to and including transfers to an acute care hospital.
- (g) The need for physical, occupational, and/or speech therapy services shall be assessed and services shall be provided as needed.
- (h) If an individual is receiving enteral feedings and there is a complication of medical status secondary to the nutritional status, a dietary consultation shall be made available to that individual.

(8) Service collaboration and day programming

Prior to an individual's admission to an intermediate care facility for pediatric ventilator services, the provider shall arrange for a suitable school or day program for the individual and shall submit the plan for such program to the designated outlier coordinator or other department designee.

(9) Preliminary evaluation

- (a) Prior to an individual's admission to an intermediate care facility for pediatric ventilator services, the provider shall develop and submit to the designated outlier coordinator or other department designee accurate assessments or reassessments by an interdisciplinary team that



address the individual's health, social, psychological, educational, vocational, and chemical dependency needs.

- (b) Health information shall include a copy of the medical assessment completed by a pediatric physician who has knowledge of and experience with the individual and shall include a clinical summary, need for invasive mechanical ventilation (including viability and plan for weaning), detailed therapy assessment with recommended therapy plan, medication needs, and any other medical information relevant to the individual's care needs.

(10) Ongoing monitoring

A registered nurse shall submit a written summary of clinical status to the primary care physician on a monthly basis. The physician shall review and sign the summary and place it in the individual's medical record.

(11) Transitional plan

Due to the complex and intensive needs of individuals being admitted to an intermediate care facility for pediatric ventilator services, the provider shall develop a transitional plan prior to admission of an individual to ensure that the facility is able to meet the individual's health, safety, and behavioral needs from the day of admission. The transitional plan shall address major concerns and shall be provided to the designated outlier coordinator or other department designee upon request.

(12) Initial assessment

Within thirty days after admission, the provider shall develop accurate assessments or reassessments by an interdisciplinary team that address the individual's health, social, psychological, educational, vocational, and chemical dependency needs in order to supplement the preliminary evaluation described in paragraph (D)(9) of this rule, which was conducted prior to admission. The provider shall provide the assessments or reassessments to the designated outlier coordinator or other department designee upon request.

(13) Individual plan, significant change in medical status, and quarterly report

- (a) Within thirty days of an individual's admission, the facility, with input from the individual, the individual's parent, the individual's guardian, or other person whom the individual has identified, as applicable, shall develop a comprehensive individual plan. The individual plan shall be

reviewed by the appropriate program staff at least quarterly and revised as necessary with input from the individual, the individual's parent, the individual's guardian, or other person whom the individual has identified, as applicable. The facility shall provide a copy of the individual plan to the designated outlier coordinator or other department designee upon request.

- (b) The facility shall notify the designated outlier coordinator or other department designee whenever an individual experiences a significant change in medical status, including hospitalization.
- (c) The facility shall prepare a quarterly report in a format approved by the department that summarizes the resident's individual plan, progress, changes in treatment, current status relative to discharge goals, and any updates to the discharge plan, including referrals made and anticipated time frames. The facility shall provide a copy of the quarterly report to the designated outlier coordinator or other department designee upon request.
- (d) The designated outlier coordinator or other department designee may visit the facility at any time. The facility shall provide any documents or information requested by the designated outlier coordinator or other department designee.

(14) Discharge plan

Within thirty days after admission, the facility shall develop a written discharge plan developed by the interdisciplinary team in conjunction with the individual and others concerned with the individual's welfare. The discharge plan shall include a description of targeted medical/health status indicators that would signify the resident could be safely discharged. The facility shall provide a copy of the discharge plan to the designated outlier coordinator or other department designee upon request

(15) Continued stay denials

If prior authorization is denied during an assessment that was requested for an individual already residing in the intermediate care facility for pediatric ventilator services, the intermediate care facility shall accept payment for the provision of services at the non-outlier intermediate care facility reimbursement rate.

(16) Outlier per diem rate add-on

- (a) A facility per diem rate shall be set in accordance with Chapter 5124. of the Revised Code and applicable rules in Chapter 5123:2-7 of the Administrative Code. An outlier per diem rate add-on for pediatric ventilator services, determined and applied in accordance with paragraph (H) of this rule, shall be added to the facility per diem rate.
- (b) With the exception of any specific items that are direct-billed in accordance with rule 5123:2-7-11 of the Administrative Code, the provider shall agree to accept as payment in full the per diem rate established for intermediate care facility pediatric ventilator services in accordance with this rule, and to make no additional charge to the individual, to any member of the individual's family, or to any other source for covered intermediate care facility pediatric ventilator services.

(E) Prior authorization for services

Payment for intermediate care facility pediatric ventilator services covered by the medicaid program shall be available only upon prior authorization by the department for each individual in accordance with the procedures set forth in this rule. The prior authorization procedures set forth in this rule are in addition to the level of care review process set forth in rule 5123:2-7-06 of the Administrative Code.

(1) Submission of requests

- (a) All requests for prior authorization for intermediate care facility pediatric ventilator services shall be in writing and shall be mailed to "Ohio Department of Developmental Disabilities, Division of Medicaid Development and Administration, 30 East Broad Street, 13th Floor, Columbus, Ohio 43215-3414" or faxed to (614) 466-0652.
- (b) Requests shall be sent to the designated outlier coordinator or other department designee.
- (c) A request is considered submitted when it is received by the designated outlier coordinator or other department designee.

(2) Initial request requirements

It is the responsibility of the provider to ensure that all required information is provided to the department as requested. An initial request for prior

authorization for intermediate care facility pediatric ventilator services is considered complete when all of the following requirements have been met:

- (a) The Ohio department of job and family services form 03142, "Prior Authorization" (revised March 2008), has been appropriately completed and submitted;
- (b) The Ohio department of job and family services form 03697, "Level of Care Assessment" (revised April 2003), or an alternative form specified by the department that accurately reflects the individual's current mental and physical condition and is certified by a physician has been appropriately completed and submitted;
- (c) In accordance with the level of care review process for intermediate care facilities set forth in rule 5123:2-7-06 of the Administrative Code, a level of care determination has been issued in accordance with rule 5101:3-3-07 of the Administrative Code and a determination regarding the feasibility of community-based care has been made; and
- (d) The intermediate care facility for pediatric ventilator services has submitted to the designated outlier coordinator the prior authorization request form and supporting documentation exhibiting evidence that the applicant meets criteria listed in paragraphs (C)(3) to (C)(7) of this rule. The provider shall retain a duplicate copy of all submitted documentation. Supporting documentation may include, but is not limited to, the preliminary evaluation, assessments, and transitional plan required prior to admission as set forth in paragraph (D) of this rule.

### (3) Initial stay assessment

The department's determination will be based on the completed initial stay request and any additional information or documentation necessary to make the determination of eligibility for intermediate care facility pediatric ventilator services, which may include a face-to-face visit by at least one department representative with the individual and, if applicable, the individual's parent, the individual's guardian, or other person whom the individual has identified and, to the extent possible, the individual's formal and informal care givers, to review and discuss the individual's care needs and preferences.

### (4) Prior authorization determination

Based upon a comparison of the individual's condition, service needs, and the requested placement site with the eligibility criteria set forth in paragraph (C) of this rule, the department shall conduct a review of the application, assessment report, and supporting documentation about the individual's condition and service needs to determine whether the individual is eligible for intermediate care facility pediatric ventilator services.

(5) Notice of determination

When a request for prior authorization for intermediate care facility pediatric ventilator services has been processed by the department, the department shall issue a notice of determination indicating approval or denial of the request by mail or fax to the individual, the individual's parent, the individual's guardian, or other person whom the individual has identified, as applicable, and the provider.

(a) Denial

When a request for prior authorization for intermediate care facility pediatric ventilator services is denied, the department shall issue a notice of denial and the individual's right to a state hearing in accordance with Chapter 5101:6-2 of the Administrative Code. The notice shall include an explanation of the reason for the denial. The department shall send a copy of the notice to the county department of job and family services to be filed in the individual's case record.

(b) Approval

When a request for prior authorization for intermediate care facility pediatric ventilator services is approved, the department shall issue an approval letter that includes an assigned prior authorization number, the number of days for which intermediate care facility pediatric ventilator services are authorized, and the date on which payment is authorized to begin. The approval letter shall include the name, location, and phone number of the department staff member who is assigned to monitor the individual's progress in the facility. The department shall send a copy of the approval letter to the county department of job and family services to be filed in the individual's case record.

(i) Authorization for initial stay

Individuals who are determined to have met the eligibility criteria set forth in paragraph (C) of this rule may be approved for an initial stay of up to a maximum of six months, or up to one

hundred eighty-four days. The number of months or days that is prior-authorized for each eligible individual shall be based upon the submitted application materials, consultation with the individual's attending physician, and/or any additional consultations or materials required by the assessor to make a reasonable estimation regarding the individual's probable length of stay in the intermediate care facility for pediatric ventilator services.

(ii) Authorization for continued stays

Continued stay determinations shall be based on reports from the facility submitted to the designated outlier coordinator regarding critical events and the status of the individual's condition and discharge planning options, face-to-face assessments conducted by the department, and/or other information determined by the department. When the department determines that the individual continues to meet the eligibility criteria set forth in paragraph (C) of this rule, and the provider submits a request for continued stay in accordance with paragraph (E)(6)(b) of this rule, continued stays may be approved for maximum increments of six months, up to one hundred eighty-four days.

- (c) Reimbursement for services provided by an intermediate care facility for pediatric ventilator services shall be limited to services approved as indicated in the approval letter.

(6) Discharge

- (a) An individual is expected to be discharged to the setting specified in the individual's discharge plan at the end of the prior-authorized initial or continued stay, and progress toward that end shall be monitored by the department or its designee throughout the individual's stay in the intermediate care facility for pediatric ventilator services.
- (b) Intermediate care facility pediatric ventilator services may be extended beyond the previously approved length of stay if the provider submits a written request to the department proving that it is not possible to implement the individual's discharge plan. Such requests shall be submitted at least thirty days prior to the last day of the previously authorized stay, unless there is a significant change of circumstances within the week preceding the expected discharge date that prevents implementation of the discharge plan.

(F) Application for designation as a provider of intermediate care facility for pediatric ventilator services

The facility shall complete and submit to the department an application for designation as a provider of intermediate care facility for pediatric ventilator services (available at <http://dodd.ohio.gov/medicaid/Documents/Application%20for%20Pediatric%20Ventilator%20Services%20Program.pdf>). The facility shall provide any additional information requested by the department and may be subject to on-site visits by department personnel.

(G) Payment authorization

The payment authorization date shall be one of the following, but shall not be earlier than the effective date of the individual's level of care determination:

- (1) The date of admission to the intermediate care facility for pediatric ventilator services if it is within thirty days of the physician's signature on the Ohio department of job and family services form 03697, "Level of Care Assessment" (revised April 2003), or an alternative form specified by the department; or
- (2) The date of intermediate care facility for pediatric ventilator services prior authorization approval, if the individual was already a resident of an intermediate care facility for pediatric ventilator services but was using another payer source; or
- (3) A date other than that specified in paragraph (G)(1) or (G)(2) of this rule. This alternative date may be authorized only upon receipt of a letter by the designated outlier coordinator or other department designee that contains a credible explanation for the delay from the originator of the request for prior authorization of intermediate care facility pediatric ventilator services. If the request is to backdate the level of care and intermediate care facility for pediatric ventilator services eligibility determination more than thirty days from the physician's signature, the physician shall verify the continuing accuracy of the information and need for inpatient care either by adding a statement to that effect on the form 03697 or an alternative form specified by the department, or by attaching a separate letter of explanation.

(H) Initial and subsequent contracted rates

The department shall establish the initial and subsequent contracted rates in accordance with Chapter 5124. of the Revised Code. All rate adjustments determined in accordance with this rule shall be effective the first day of the first

month following the admission or discharge of an individual meeting the requirements set forth in this rule, including prior authorization requirements set forth in paragraph (E) of this rule.

- (1) An intermediate care facility for pediatric ventilator services serving one individual meeting the requirements set forth in paragraph (C) of this rule and prior-authorized for intermediate care facility pediatric ventilator services shall be eligible for the outlier per diem rate add-on using the following formula:

Divide three hundred dollars by the number of licensed beds in the intermediate care facility including the bed occupied by the individual receiving intermediate care facility pediatric ventilator services. The result will be added to the facility's per diem rate.

- (2) An intermediate care facility for pediatric ventilator services serving more than one individual meeting the requirements set forth in paragraph (C) of this rule and prior-authorized for intermediate care facility pediatric ventilator services shall be eligible for the outlier per diem rate add-on using the following formula:

Multiply the number of individuals residing in the intermediate care facility prior-authorized to receive intermediate care facility pediatric ventilator services by three hundred dollars. Divide the product by the number of licensed beds in the intermediate care facility including the beds occupied by the individuals receiving intermediate care facility pediatric ventilator services. The result will be added to the facility's per diem rate.

- (3) The amount of the intermediate care facility pediatric ventilator services outlier per diem rate add-on shall be recalculated when individuals eligible for intermediate care facility pediatric ventilator services are admitted or discharged, when individuals become ineligible, as well as during each rate-setting process for the intermediate care facility. The provider shall be responsible for contacting the designated outlier coordinator no later than by the close of the next business day following the discharge of an individual to ensure processing time for recalculation and application of the outlier per diem rate add-on to the facility per diem rate.

- (4) If the department obtains the ability to utilize person-specific rates, the outlier per diem rate add-on will be specific to the individual approved to receive pediatric ventilator services in the amount of three hundred dollars.



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CERTIFIED ELECTRONICALLY

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Certification

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Date

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