



Department of  
Developmental Disabilities

### NOTICE OF PUBLIC HEARING

**DATE:** May 31, 2018

**TIME:** 10:00 a.m.

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

The Ohio Department of Developmental Disabilities hereby gives notice of its intent to rescind and adopt the following rules of the Administrative Code on a permanent basis on or about July 8, 2018, and to conduct a public hearing thereon.

The Department is rescinding rule 5123:2-7-01 (Intermediate Care Facilities - Definitions) and adopting new replacement rule 5123-7-01 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Definitions). The rules define terms used throughout other rules governing Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFIID). New rule 5123-7-01 reflects revisions made as a result of five-year review.

The Department is rescinding rule 5123:2-7-10 (Intermediate Care Facilities - Outlier Services for Behavioral Redirection and Medical Monitoring). The rule sets forth requirements for serving residents whose care needs are not adequately measured by the resident assessment classification system. The rule is unnecessary as ICFIID

no longer provide the behavioral redirection and medical monitoring services addressed therein.

The Department is rescinding rule 5123:2-7-12 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Cost Report and Chart of Accounts) and adopting new replacement 5123-7-12 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Cost Report and Chart of Accounts). The rules set forth standards and requirements for an ICFIID to submit cost reports and maintain supporting documents and records. New rule 5123-7-12 includes provisions regarding accumulated depreciation from existing rule 5123:2-7-24.

The Department is rescinding rule 5123:2-7-20 (Intermediate Care Facilities - Resident Assessment Classification and Case Mix Payment System) and adopting new replacement rule 5123-7-20 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Resident Assessment Classification System Based on Administration of the Individual Assessment Form). The rules set forth a method and process for determining the per resident/per day rate paid to an ICFIID for direct care costs based on assessment of residents using the Individual Assessment Form. Revisions are necessary to make clear that for a period of three years, the Department shall calculate two separate rates for an ICFIID's direct care costs, one based on data from the Individual Assessment Form and one based on data from the Ohio Developmental Disabilities Profile.

The Department is rescinding rule 5123:2-7-24 (Intermediate Care Facilities - Cost of Ownership, Efficiency Incentive, and Reporting of Accumulated Depreciation) and adopting new replacement rule 5123-7-24 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Costs of Ownership Payment). New rule 5123-7-24 includes only provisions regarding costs of ownership payments. Provisions in rule 5123:2-7-24 regarding accumulated depreciation have been incorporated to new rule 5123-7-12.

The Department is rescinding rule 5123:2-7-25 (Intermediate Care Facilities - Nonextensive Renovation) and adopting new replacement rule 5123-7-25 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Nonextensive Renovation). The rules define "nonextensive renovation" and set forth a process for calculating the per-bed cost. New rule 5123-7-25 carries forth the requirements regarding nonextensive renovation from existing rule 5123:2-7-25 but makes clear that no new nonextensive renovations will be approved on or after the effective date of the new rule (projected to be July 1, 2018).

The Department is rescinding rule 5123:2-7-26 (Intermediate Care Facilities - Active Treatment Day Programming). The rule sets forth that the costs of active treatment day programming shall be part of an ICFIID's direct care costs. The rule is unnecessary as the appendix to existing rule 5123:2-7-12 (and new rule 5123-7-12) includes the cost centers for active treatment day programming and existing rule 5123:2-3-04 sets forth requirements for day programming for residents of an ICFIID.

The Department is rescinding rule 5123:2-7-27 (Intermediate Care Facilities - Prospective Rate Reconsideration on the Basis of Possible Calculation Errors) and rule 5123:2-7-28 (Intermediate Care Facilities - Prospective Rate Reconsideration on the Basis of Extreme Hardship Upon Admission of a Resident from a State-Operated Developmental Center). The rules set forth a process for an ICFIID to seek a higher per diem payment rate. The Department is adopting new rule 5123-2-27 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Request for Rate Reconsideration) which addresses all types of prospective rate reconsiderations and replaces both 5123:2-7-27 and 5123:2-7-28.

The Department is rescinding rule 5123:2-7-30 (Intermediate Care Facilities - Exception Review Process) and adopting new replacement rule 5123-7-30 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Exception Review Process for Individual Assessment Form Data). The rules set forth a process by which the Department shall conduct exception reviews related to Individual

Assessment Form data submitted by an ICFIID. New rule 5123-7-30 clarifies that exception reviews may be conducted on-site at the ICFIID or via a desk review and includes a new provision that prohibits Department staff who conducted an exception review from processing a related request for reconsideration.

The Department is adopting new rule 5123-7-33 (Intermediate Care Facilities for Individuals with Intellectual Disabilities - Resident Assessment Classification System Based on Administration of the Ohio Developmental Disabilities Profile). The rule sets forth a method and process for determining the per resident/per day rate paid to an ICFIID for direct care costs based on assessment of residents using the Ohio Developmental Disabilities Profile. The format of rule 5123-7-33 aligns with new rule 5123-7-20 and sets forth that for a period of three years, the Department shall calculate two separate rates for an ICFIID's direct care costs, one based on data from the Individual Assessment Form and one based on data from the Ohio Developmental Disabilities Profile.

At this public hearing, the Department will accept verbal and/or written testimony on the proposed rule actions. Persons unable to attend the public hearing may submit written comments on the proposed rule actions. 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](mailto:becky.phillips@dodd.ohio.gov) or by U.S. mail to 30 East Broad Street, 12th Floor, Columbus, Ohio 43215-3414.

The rules are available for review at the Register of Ohio website (<http://registerofohio.state.oh.us>) and at the Department's website (<http://dodd.ohio.gov/RulesLaws/Pages/Rules-Under-Development.aspx>). The rules are also available for review at each county board of developmental disabilities.