

5123:2-7-03

**Intermediate care facilities - institutions eligible to participate in medicaid.**

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

- (1) "Certification" means the process by which the state survey agency certifies its findings to the federal centers for medicare and medicaid services or the Ohio office of medical assistance with respect to a facility's compliance with health and safety requirements of divisions (a), (b), (c), and (d) of section 1919 of the Social Security Act, 42 U.S.C. 1396r (1999).
- (2) "Certified beds" mean beds that are counted in a provider facility that meets medicaid standards. A count of facility beds may differ depending on whether the count is used for certification, licensure, eligibility for medicaid payment formulas, eligibility for waivers, or other purposes.
- (3) "Distinct part" means a portion of an institution or institutional complex that is certified to provide intermediate care facility services. A distinct part shall be physically distinguishable from the larger institution and fiscally separate for cost reporting purposes. A distinct part must meet the requirements of 42 C.F.R. 440.150 (1994).
- (4) "Facility" means the entity subject to certification and approval in order for the provider to be approved for medicaid payment. A facility may be an entire institution or may be a distinct part of an institution.
- (5) "Intermediate care facility services" means those services provided to eligible individuals requiring a level of care and active treatment as set forth and defined in rule 5101:3-3-07 of the Administrative Code and that are available in facilities certified as intermediate care facilities by the Ohio department of health or by the state survey agency of another state.

(B) Requirements for participation

To participate in the Ohio medicaid program and receive payment for intermediate care facility services provided to eligible residents, operators shall meet all of the following requirements:

- (1) Operate a facility that meets the licensure, registration, and other applicable state standards as set forth in this rule; and
- (2) Operate a facility certified by the Ohio department of health or by the state survey agency of another state as being in compliance with applicable federal regulations for medicaid participation as an intermediate care facility with a minimum of four intermediate care facility certified beds, as set forth in this rule; and
- (3) Operate a facility for which the provider has a medicaid provider agreement

with the Ohio office of medical assistance.

(C) Qualified types of Ohio intermediate care facilities

To be eligible for certification a facility shall qualify as one of the following:

(1) A residential facility licensed by the department in accordance with section 5123.19 of the Revised Code and rules adopted pursuant to Chapter 5123. of the Revised Code, with an operator who has received development approval to operate the residential facility as an intermediate care facility under one of the following conditions:

(a) An operator has requested a new residential facility license and obtained development approval from the department pursuant to rule 5123:2-3-26 of the Administrative Code to operate the facility as an intermediate care facility; or

(b) An operator of an existing residential facility who has received development approval to operate a facility other than an intermediate care facility, and has submitted a new request for development approval that specifies the plan to modify the type or source of funding for the facility, and has received development approval from the department pursuant to rule 5123:2-3-26 of the Administrative Code to operate the facility as an intermediate care facility.

(2) As described in section 5123.192 of the Revised Code, a nursing home or portion of a nursing home licensed by the Ohio department of health that holds beds initially certified as intermediate care facility beds before June 30, 1987, that continue to be certified as intermediate care facility beds.

(3) A county home, county nursing home, or district home operated in compliance with Chapter 5155. of the Revised Code that was certified as an intermediate care facility before January 20, 2005.

(D) Certification of intermediate care facilities and beds subject to certification survey

(1) Certification

A facility's certification as an intermediate care facility by the Ohio department of health or by the state survey agency of another state governs the types of services the facility may provide.

(2) Provider agreements

A provider agreement with an Ohio intermediate care facility shall include any part of the facility that meets standards for certification of compliance with federal and state laws for participation in the medicaid program.

(3) Emergency services

(a) Waiver of licensed capacity.

(i) To accommodate persons in emergency need of services, the department may issue to the operator of a licensed residential facility a waiver of licensed capacity.

(ii) A waiver of licensed capacity is time-limited and temporarily permits the operator to exceed the maximum number of licensed beds.

(b) Institutional respite care.

(i) A waiver of licensed capacity may be made specifically in order to provide institutional respite care as a prior authorized service to persons enrolled in a home and community based services waiver in accordance with division 5101:3 of the Administrative Code.

(ii) Beds designated for institutional respite care for persons enrolled in home and community-based services waivers shall not be included in the provider agreement.

(4) Beds subject to certification survey

(a) All beds in a medicaid-participating intermediate care facility that are not designated for institutional respite care for persons enrolled in a home and community-based services waiver shall be surveyed to determine compliance with the applicable certification standards.

(b) If the beds are certifiable, they shall be included in the provider agreement.

(c) Beds authorized through a waiver of residential facility licensed capacity in accordance with rule 5123:2-3-26 of the Administrative Code that are used to provide intermediate care facility services shall be included in the provider agreement.

(d) The only other basis for allowing nonparticipation of a portion of an Ohio intermediate care facility is certification of noncompliance by the Ohio department of health.

(E) Requirements for out-of-state providers of intermediate care facility services

(1) To participate in the Ohio medicaid program and receive payment for intermediate care facility services to eligible Ohio residents, an operator of a

facility located outside Ohio shall meet all of the following requirements in its state of origin:

(a) The operator of the facility shall hold a valid state-required license, registration, or equivalent from the respective state that specifies the level(s) of care the facility is qualified to provide; and

(b) The operator of the facility shall hold a valid and current medicaid provider agreement from the respective state as an intermediate care facility provider type.

(2) Additionally, out-of-state providers shall meet the following Ohio requirements:

(a) The operator of the facility shall have a current, completed, and signed Ohio office of medical assistance form 03623 on file with the Ohio office of medical assistance; and

(b) The operator of the facility shall obtain resident-specific and date-specific prior authorization in accordance with rule 5101:3-1-11 of the Administrative Code.

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CERTIFIED ELECTRONICALLY

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Certification

12/31/2012

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Date

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