

5123-7-08**Intermediate care facilities for individuals with intellectual disabilities - bed-hold days.**(A) Purpose

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.

(B) Definitions

For the purposes of this rule, the following definitions apply:

- (1) "Admission" occurs when an individual who was not being counted in the census of any Ohio medicaid-certified ICFIID becomes a resident of an ICFIID. An admission may be a new admission or a return admission after a discharge.
- (2) "Advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.
- (3) "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.
- (4) "Business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.
- (5) "Discharge" means the full release of a resident from an ICFIID so that he or she is no longer counted in the ICFIID's census. Reasons for discharge include, but are not limited to, the resident's move to another ICFIID, decision to reside in a community-based setting, or death. The day of discharge is not counted as a bed-hold day or an occupied day except when discharge and admission occur on the same day, in which case the day is considered a day of admission and counts as one occupied day.
- (6) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.
- (7) "Hospital" has the same meaning as in rule 3701-59-01 of the Administrative Code.

- (8) "Hospitalization" means a resident is temporarily absent from an ICFIID for the purpose of receiving services or being treated in a hospital.
- (9) "Institution for mental disease" has the same meaning as in rule 5160-3-16.4 of the Administrative Code.
- (10) "Occupied day" means either:
- (a) A day of admission; or
 - (b) A day during which a medicaid-eligible resident's stay in an ICFIID is eight or more hours. A day begins at twelve a.m. and ends at eleven fifty-nine p.m.
- (11) "Readmission" occurs when a resident returns to the same ICFIID following use of bed-hold days.
- (12) "Skilled nursing facility" means a nursing facility certified to participate in the medicare program.
- (13) "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.

(C) Prohibition of preadmission bed-hold payment

- (1) The department shall not make payment to an ICFIID to reserve a bed for a medicaid-eligible prospective resident.
- (2) An ICFIID shall not accept preadmission payment to reserve a bed from a medicaid-eligible prospective resident or from any other source on the prospective resident's behalf as a precondition for admission.

(D) Limits and reimbursement for bed-hold days

- (1) 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.

(2) Reimbursement for bed-hold days shall be paid at one hundred per cent of the ICFIID's per diem rate.

(3) Reimbursement for bed-hold days may be made for the following reasons:

(a) Hospitalization

Bed-hold days used for hospitalization may be reimbursed only until:

(i) The day the resident's anticipated level of care at time of discharge from the hospital changes to a level of care that the ICFIID is not certified to provide;

(ii) The day the resident is discharged from the hospital, including discharge resulting in transfer to the ICFIID, a nursing facility, or a skilled nursing facility;

(iii) The day the resident decides to go to another ICFIID upon discharge from the hospital and notifies the first ICFIID; or

(iv) The day the hospitalized resident dies.

(b) Therapeutic leave

(i) 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 a physician or an advanced practice registered nurse and documented in the resident's medical record. The documentation shall be available for viewing by the department.

(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 a physician, an advanced practice registered nurse, 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.

(iii) An ICFIID shall make arrangements for the resident to receive required care and services while on approved therapeutic leave. Medicaid funding, however, shall not be used for state plan home health services, durable medical equipment, and/or private duty nursing on days for which the ICFIID receives reimbursement for bed-hold days.

(c) Visit with friends or relatives

(i) A plan to use bed-hold days to visit with friends or relatives must be approved in advance by a physician, an advanced practice registered nurse, 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.

(ii) An ICFIID shall make arrangements for the resident to receive required care and services while on approved visits. Medicaid funding, however, shall not be used for state plan home health services, durable medical equipment, and/or private duty nursing on days for which the ICFIID receives reimbursement for bed-hold days.

(iii) The number of days per visit is flexible within the maximum bed-hold days, allowing for differences in the resident's physical condition, the type of visit, and travel time.

(4) The number and frequency of bed-hold days used shall be considered in evaluating the continuing need of a resident for care in an ICFIID.

(E) Requests for additional bed-hold days

(1) Additional bed-hold days beyond the original thirty days in a calendar year require prior authorization except in the event of an emergency situation. In the event of an emergency situation, authorization may be requested after the fact if the request is submitted no later than one business day following the first additional bed-hold day. A maximum of thirty additional consecutive bed-hold days may be authorized per request.

(2) An ICFIID shall submit a request 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 include:

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

(b) Projected dates of absence; and

(c) Projected date of return.

- (3) 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.
- (a) When a request is approved, the notice shall specify the time period during which the bed-hold days may be used.
- (b) When a request is denied, the notice shall specify the reason for denial and explain the individual's right to a state hearing in accordance with section 5101.35 of the Revised Code.
- (4) The department shall review requests for additional bed-hold days on a case-by-case basis. Conditions under which a request may be denied include, but are not limited to, visits with friends or relatives exceeding thirty consecutive days or forty-five total days in a calendar year.
- (5) An approved request for additional bed-hold days is for the specified period of time only. Unused bed-hold days from an approved request shall not be used at a later time. A new request must be submitted if additional bed-hold days are required during that same calendar year.
- (6) Bed-hold days beyond the original thirty days used without prior authorization by the department may result in an adjustment to the ICFIID's reimbursement.

(F) Readmission

An ICFIID shall readmit a resident upon depletion of approved bed-hold days or at any time prior to depletion of approved bed-hold days upon the resident's request for readmission.

(G) Residents eligible for bed-hold days

- (1) Medicaid reimbursement for bed-hold days is available under the provisions specified in this rule if a resident:
- (a) Is eligible for medicaid services and has met the patient liability and financial eligibility requirements set forth in Chapter 5160:1-6 of the Administrative Code;
- (b) Requires a developmental disabilities level of care; and
- (c) Is not excluded in accordance with paragraph (H) of this rule.
- (2) If a resident meets all of the criteria in paragraph (G)(1) of this rule and is pending approval of a medicaid application and requires bed-hold days,

medicaid reimbursement shall be made retroactive to the date the resident became medicaid-eligible and approved for medicaid vendor reimbursement through the date the resident returns from a leave or until the maximum number of bed-hold days are exhausted.

(H) Exclusions

Bed-hold days are not available to a medicaid-eligible resident of an ICFIID who is:

- (1) Enrolled in a medicare or medicaid hospice program;
- (2) Over age twenty-one and under age sixty-five and becomes a patient of an institution for mental disease;
- (3) Enrolled in a home and community-based services waiver;
- (4) In a period of restricted medicaid coverage because of an improper transfer of resources as set forth in rule 5160:1-6-06.5 of the Administrative Code; or
- (5) 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.

(I) Compliance

- (1) Without limiting such other remedies provided by law for noncompliance with this rule:
 - (a) The Ohio department of medicaid may terminate the ICFIID's provider agreement; or
 - (b) The department may require the ICFIID to submit and implement a corrective action plan on a schedule specified by the department.
- (2) An ICFIID shall cooperate with any investigation and shall provide copies of any records requested by the department or the Ohio department of medicaid.

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