

5123-7-28**Intermediate care facilities for individuals with intellectual disabilities - intensive behavioral support rate add-on.**(A) Purpose

This rule sets forth requirements for an intermediate care facility for individuals with intellectual disabilities (ICFIID) to receive a per diem rate add-on established pursuant to section 5124.26 of the Revised Code for providing short-term intensive behavioral support to youth with complex behavioral support needs in a discrete unit or building of six or fewer beds.

(B) Definitions

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

- (1) "Accredited college or university" means a college or university accredited by a national or regional association recognized by the secretary of the United States department of education or a foreign college or university of comparable standing.
- (2) "Aftercare services" means individualized, intensive, post-discharge services driven by input from a youth and his or her team, provided by a discharging ICFIID to the youth and his or her family or other caregivers, as applicable.
- (3) "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.
- (4) "County board" means a county board of developmental disabilities.
- (5) "Follow-along services" means contact, engagement, and assistance provided by the department to support a youth who has been discharged from an ICFIID to ensure he or she makes a successful transition back into his or her home and community.
- (6) "Intensive behavioral support rate add-on" means per diem reimbursement in the amount of three hundred dollars paid to an ICFIID that is approved by the department in accordance with this rule for serving a specific resident who is in middle to late childhood, generally age ten through seventeen, and who has complex behavioral support needs. The intensive behavioral support rate add-on is intended to compensate an ICFIID for the additional costs associated with serving a youth with complex behavioral support needs such as:
 - (a) Intensive and specialized therapies (e.g., occupational, physical, speech, audiology, and applied behavior analysis);

- (b) Non-traditional therapies (e.g., art, music, and recreation);
- (c) Higher staffing levels including one-to-one staffing;
- (d) Specialized training for staff;
- (e) Higher level and intensity of supervision;
- (f) Intensive engagement with family or other caregivers; and
- (g) Participating in the intensive behavioral support community of practice convened by the department.

(7) "Person-centered plan" means a written description of the services to be provided to a resident of an ICFIID that meets the requirements set forth in 42 C.F.R. 483.440(c) as in effect on the effective date of this rule for an individual program plan and the requirements for person-centered planning set forth in rule 5123:2-3-03 of the Administrative Code.

(8) "Psychiatrist" means a physician licensed in accordance with Chapter 4731. of the Revised Code to practice psychiatry.

(C) Approval to receive the intensive behavioral support rate add-on

There are two components of securing approval to receive the intensive behavioral support rate add-on:

(1) Facility eligibility

- (a) An ICFIID that is interested in receiving the intensive behavioral support rate add-on for current or prospective residents may, when the department is seeking applications, complete and submit an application. The ICFIID will provide information requested by the department and may be subject to documentation reviews and on-site visits by department personnel as part of the application process.
- (b) As part of its application, an ICFIID will submit a best practices protocol for providing intensive behavioral support which will be evaluated by the department to determine if it is acceptable.
- (c) To obtain and maintain approval to receive the intensive behavioral support rate add-on, an ICFIID will:

- (i) Enter into an agreement with the department for the provision of intensive behavioral support.
 - (ii) Agree to cooperate with the department's oversight of intensive behavioral support as described in paragraph (E) of this rule.
- (d) An ICFIID whose license has been suspended and/or proposed for revocation by the department within the past twenty-four months is not eligible to receive the intensive behavioral support rate add-on.

(2) Specific youth served

- (a) An ICFIID that has complied with the requirements and obtained approval in accordance with paragraph (C)(1) of this rule may request the intensive behavioral support rate add-on which may be available for serving a specific youth who is:

(i) Within middle to late childhood, generally age ten through seventeen.

(ii) Determined by the department, in collaboration with the youth's home county board, to need intensive behavioral support based on a comprehensive review of the youth. Referral of a youth to the department for a comprehensive review described in this paragraph may be initiated by the ICFIID or by another entity (such as a county board or the Ohio department of medicaid). The comprehensive review will include input from the youth and his or her team and consider:

(a) The youth's:

(i) Clinical diagnosis and history;

(ii) Current and past medications;

(iii) History of living arrangements (e.g., inside or outside family home, multiple settings, or out-of-state);

(iv) Educational history (e.g., previous educational programs, therapies, and services);

(v) Sensory integration and functioning (e.g., awareness of and response to touch, light, color, smell, taste, and texture);

- (vi) Motor skills (e.g., sitting, standing, walking, running, climbing stairs, picking up items, and holding objects);
 - (vii) Cognitive abilities (e.g., maintaining attention, organizing self, recalling information, and connecting behavior with consequences);
 - (viii) Most successful and/or preferred learning style or modality;
 - (ix) Communication skills (e.g., level of speech and ability/method for expressing wants and needs);
 - (x) Emotional experience and functioning (e.g., history of trauma; description of the type and intensity of behaviors that present a danger to self or others; ability to adapt to change; and if or how the youth demonstrates anxiety, fear, or symptoms of depression);
 - (xi) Social experience and skills (e.g., making and keeping friends, being able to wait patiently for assistance or attention, and maintaining personal space);
 - (xii) Preferences and interests, including what is important to and important for the youth, as well as any skills the youth possesses that are not addressed in other areas; and
 - (xiii) Needs and strengths identified through administration of the "Child and Adolescent Needs and Strengths" decision-making tool.
- (b) Positive supports and interventions that have been found effective in meeting the youth's needs (e.g., successful visual and environmental supports).
- (c) Assistive technology that has been used or is currently used to support the youth.
- (b) An ICFIID will electronically submit a request to secure approval to receive the intensive behavioral support rate add-on for serving a specific youth to the department.

- (i) The department will determine whether the ICFIID will receive the intensive behavioral support rate add-on for serving a specific youth based on the information contained in the submitted request, the comprehensive review of the youth conducted in accordance with paragraph (C)(2)(a)(ii) of this rule, the services offered by the ICFIID, the residents currently served by the ICFIID, and other information deemed relevant by the department. The department will notify the ICFIID of its determination within fourteen calendar days after receipt of the comprehensive review and other relevant information.
- (ii) The department may issue initial approval for the intensive behavioral support rate add-on to an ICFIID for serving a specific youth for a maximum period of one hundred eighty days.
- (iii) The department may issue approval for continuation of the intensive behavioral support rate add-on beyond the previously approved period. To ensure continuity, an ICFIID will electronically submit a request at least thirty calendar days prior to the last day of the previously approved period. The department will make a determination based on the submitted request, reports regarding critical events and the status of the youth's progress, discharge planning options, assessments conducted by the department, and other information deemed relevant by the department. The department may approve continuation of the intensive behavioral support rate add-on for periods of up to one hundred eighty days per request.
- (iv) The department will issue notice of determination, indicating approval or denial of the request for the intensive behavioral support rate add-on for serving a specific youth, to the ICFIID by electronic mail and provide a copy of the notice to the youth's home county board.

 - (a) When a request for the intensive behavioral support rate add-on is denied, the notice will specify the reason for denial.
 - (b) When a request for the intensive behavioral support rate add-on is approved, the notice will include an assigned approval number, the number of days for which the intensive behavioral support rate add-on is approved, and the date on which payment is approved to begin. The notice will also include the name, location, and phone number of the

department staff member who is assigned to monitor the youth's progress at the ICFIID.

(D) Requirements for services provided

With regard to a youth for whom an ICFIID receives the intensive behavioral support rate add-on, the ICFIID shall:

- (1) Serve the youth in a discrete unit or building where only residents age ten through seventeen reside and that has six or fewer beds.
- (2) Provide the youth with his or her own bedroom which will not be shared by any other resident.
- (3) Provide services in accordance with the ICFIID's best practices protocol for providing intensive behavioral support.
- (4) Utilize trauma-informed approaches to care.
- (5) Ensure that staff who supervise the day-to-day provision of services meet one of the following:
 - (a) Hold professional license or certification issued by the Ohio board of psychology; the state medical board of Ohio; or the Ohio counselor, social worker, and marriage and family therapist board;
 - (b) Hold a certificate to practice as a certified Ohio behavior analyst pursuant to section 4783.04 of the Revised Code; or
 - (c) Hold a bachelor's or graduate-level degree from an accredited college or university and have at least three years of paid full-time (or equivalent part-time) experience in developing and/or implementing behavioral support and/or risk reduction strategies or plans.
- (6) Ensure that staff who supervise the day-to-day provision of services and staff who directly provide services successfully complete training in:
 - (a) Orientation to provision of intensive behavioral support, including the rights of persons with developmental disabilities set forth in section 5123.62 of the Revised Code and the requirements of rule 5123:2-2-06 of the Administrative Code;

- (b) Accepted best practices and innovative approaches, as set forth in the ICFIID's best practices protocol for providing intensive behavioral support, to meet residents' needs;
 - (c) Department-provided training in comprehensive supports for youth with complex behavioral support needs; and
 - (d) The specific needs of, and supports to be provided to, each resident.
- (7) Ensure that nursing services are available twenty-four hours per day.
- (8) Ensure that psychiatric services are available twenty-four hours per day and that a psychiatrist reviews the youth's clinical status at least once every six months.
- (9) Electronically submit notice to the department no later than by the close of the next business day when a youth experiences a significant change in status, including psychiatric hospitalization.
- (10) Obtain the department's approval prior to initiating a transfer or termination of services in accordance with rule 5123:2-3-05 of the Administrative Code.
- (11) Develop a comprehensive person-centered plan including a viable discharge plan, within thirty calendar days of a youth's admission that reflects:
 - (a) Ongoing collaboration with the youth's parent or guardian, as applicable, and home county board;
 - (b) Arrangement of school services for the youth;
 - (c) Identifying and accessing necessary supports and services to ensure the youth and the youth's family or other caregivers, as applicable, are successful; and
 - (d) Training the youth's family or other caregivers, as applicable, in techniques that are found effective for supporting the youth.
- (12) On a weekly basis, complete progress notes which describe the youth's progress or lack of progress, significant changes in functioning, and recommendations for modification to the person-centered plan, if indicated.
- (13) In collaboration with a youth's home county board and the department, provide three months of aftercare services upon the youth's discharge.

(E) Department oversight

- (1) The department will oversee provision of intensive behavioral support to a youth for whom an ICFIID is receiving the intensive behavioral support rate add-on. Department oversight includes:
- (a) Providing support to the ICFIID, the youth, and the youth's family or other caregivers to ensure the youth's needs are met as determined by the team;
 - (b) Facilitating collaboration between the ICFIID and the youth's home county board;
 - (c) Working closely with the ICFIID to discharge the youth as appropriate or as the youth approaches eighteen years of age; and
 - (d) Providing follow-along services for three years after the youth is discharged from the ICFIID.
- (2) The department may withdraw approval of an ICFIID's facility-level eligibility to receive the intensive behavioral support rate add-on based on:
- (a) The ICFIID's failure to provide services in accordance with this rule or its agreement with the department for provision of intensive behavioral support;
 - (b) A pattern of refusing to serve youth referred to the ICFIID by the department;
 - (c) A pattern of requests to involuntarily discharge youth for whom the ICFIID receives the intensive behavioral support rate add-on based on the ICFIID's inability to provide necessary services;
 - (d) The need to safeguard the health, safety, or wellbeing of residents or staff of the ICFIID; or
 - (e) The results of a compliance review of the ICFIID conducted in accordance with rule 5123:2-3-06 of the Administrative Code.
- (3) The department will notify an ICFIID by certified mail of withdrawal of approval of the ICFIID's facility-level eligibility to receive the intensive behavioral support rate add-on no less than thirty calendar days in advance and assist the ICFIID and the home county board of an affected resident in securing alternative accommodations.

(F) Payment of the intensive behavioral support rate add-on

- (1) The department may limit the number of intensive behavioral support rate add-ons that are available.
- (2) The payment approval date for the intensive behavioral support rate add-on will be one of the following, but may not be earlier than the effective date of a youth's developmental disabilities level of care determination:
 - (a) For a youth admitted to an ICFIID on or after the effective date of this rule, the latter of the date of approval for payment of the intensive behavioral support rate add-on or the date of admission to the ICFIID; or
 - (b) For a youth admitted to an ICFIID prior to the effective date of this rule, the date of approval for payment of the intensive behavioral support rate add-on.
- (3) The intensive behavioral support rate add-on will be billed and paid in addition to an ICFIID's typical per diem rate for a specific youth for whom the ICFIID has secured approval in accordance with paragraph (C)(2) of this rule.
- (4) The intensive behavioral support rate add-on will be effective on the payment approval date determined in accordance with paragraph (F)(2) of this rule through the date authorized by the department in accordance with paragraph (C)(2)(b)(iv)(b) of this rule or until the date the youth no longer meets the criteria set forth in paragraph (C)(2)(a) of this rule.
- (5) An ICFIID shall electronically submit notice to the department no later than by the close of the next business day when a youth no longer meets the criteria set forth in paragraph (C)(2)(a) of this rule.
- (6) An ICFIID shall not bill the intensive behavioral support rate add-on for a youth who is using bed-hold days in accordance with rule 5123:2-7-08 of the Administrative Code.
- (7) Payment of the intensive behavioral support rate add-on may be denied for any service not rendered in accordance with Chapters 5123-7, 5123:2-7, and 5160-3 of the Administrative Code.

Effective: 9/18/2020

Five Year Review (FYR) Dates: 09/18/2025

CERTIFIED ELECTRONICALLY

Certification

09/08/2020

Date

Promulgated Under: 119.03
Statutory Authority: 5123.04, 5124.03, 5124.26
Rule Amplifies: 5124.26