

**NOTICE OF PUBLIC HEARING**

DATE: May 13, 2024

TIME: 10:00 a.m.

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

SUBJECT: Rules governing Intermediate Care Facilities
for Individuals with Intellectual Disabilities

Pursuant to Chapter 119. of the Revised Code, the Ohio Department of Developmental Disabilities hereby gives notice of its intent to amend, rescind, and adopt rules of the Administrative Code on a permanent basis on or about July 1, 2024, and to conduct a public hearing thereon. At this public hearing, the Department will accept verbal and/or written testimony regarding the proposed rule actions. Persons unable to attend the public hearing may submit written comments. 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 or by U.S. mail to 1810 Sullivant Avenue, Columbus, Ohio 43223-1239. Comments

regarding rules are public records; persons submitting comments should refrain from including confidential or personal information about themselves or any other person.

The Ohio Department of Developmental Disabilities is proposing changes to seven rules governing Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFIID).

Rule 5123-7-01 (ICFIID - definitions) defines terms for the purposes of rules in Chapters 5123-7 and 5123:2-7 of the Administrative Code. Based on the required five-year review, the rule is being amended to:

- Eliminate references to Chapter 5123:2-7 of the Administrative Code.
- Eliminate the definition of "state survey agency" as the term is no longer used.
- Update citations to the Revised Code and the Administrative Code.
- Eliminate regulatory restrictions.

Rule 5123-7-12 (ICFIID - cost report and chart of accounts) sets forth standards and requirements for an ICFIID to submit cost reports to the Department and maintain supporting documents and records. The rule is being amended to:

- Clarify, in the Chart of Accounts located in the Appendix, the definitions for account 6216 (Active Treatment Off-Site Day Programming Services Provided by Operator of ICFIID) and account 6217 (Active Treatment Off-Site Day Programming Services Provided by Separate Entity).
- Eliminate regulatory restrictions.

Rule 5123-7-24 (ICFIID - costs of ownership payment) sets forth conditions necessary for an ICFIID to receive a costs of ownership payment. Based on the required five-year review, the rule is being amended to:

- Update citations to the Revised Code.
- Eliminate regulatory restrictions.

Rule 5123-7-25 (ICFIID - nonextensive renovation) defines nonextensive renovation and sets forth the process for calculating the per-bed cost of a

nonextensive renovation project at an ICFIID. Based on the required five-year review, the rule is being amended to:

- Update citations to the Administrative Code.
- Eliminate regulatory restrictions.

Rule 5123-7-27 (ICFIID - request for rate consideration) establishes a process for an ICFIID or a group or association of ICFIID providers to request reconsideration of an ICFIID's per diem payment rate pursuant to Section 5124.38 of the Revised Code. Based on the required five-year review, the rule is being rescinded and replaced by a new rule of the same number and title because intended amendments affect more than 50% of the rule. New rule 5123-7-27 reflects revisions to:

- Streamline structure and wording.
- Add new paragraph (B)(2)(b) which permits an ICFIID to request a rate reconsideration based on any situation where actual allowable costs are significantly higher than those recognized by the ICFIID's current per diem payment rate and the ability of the ICFIID to deliver necessary care and active treatment is severely jeopardized.
- Eliminate wording which specifies that an ICFIID may request a rate reconsideration upon direct admission of a resident from a Department-operated ICFIID on the basis of extreme hardship on the admitting ICFIID.
- Eliminate regulatory restrictions.

Rule 5123-7-33 (ICFIID - resident assessment classification system based on administration of the Ohio developmental disabilities profile) sets forth a method and process for determining the per resident/per day rate paid to an ICFIID for direct care costs using the Ohio Developmental Disabilities Profile pursuant to Sections 5124.19 to 5124.193 of the Revised Code. Based on the required five-year review, the rule is being amended to:

- Eliminate the definition of "individual assessment form" as the term is no longer used.
- Add "Peer group 6," created by House Bill 33 of the 135th General Assembly, to paragraph (B)(8).

- Eliminate paragraph (C) because it describes a process that was in effect for three years during 2019 to 2022.
- Update a citation to the Administrative Code.
- Eliminate regulatory restrictions.

Rule 5123-7-34 (ICFIID - quality indicators and the quality incentive program) sets forth a method and process for determining the quality incentive payment that may be paid to an ICFIID for achieving quality indicators pursuant to section 5124.24 of the Revised Code. The rule is being amended to:

- Replace "individual plan" with "individual service plan."
- Update the list of essential elements of person-centered planning in paragraph (D)(2)(b) to align with OhioISP (information available at <https://dodd.ohio.gov/compliance/oisp>).
- Permit Department staff to conduct a virtual review of an ICFIID's implementation of its written policy for a quality indicator.
- Update a citation to the Administrative Code.

The rules are available for review at the [Register of Ohio](#) and at the [Department's website](#). The rules are also available for review at each county board of developmental disabilities.

The Department is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act and other applicable laws. To request a reasonable accommodation due to a disability, please contact Becky Phillips, Administrative Rules Coordinator, no later than April 29, 2024, by email to becky.phillips@dodd.ohio.gov or by telephone (614-644-7393 / TTY 711).

Please note that visitors to the Rhodes State Office Tower must enter the building through the Broad Street lobby. Visitors will be required to register at the security desk by showing government-issued photo identification and pass through a magnetometer. Visitors' belongings, such as purses and backpacks, are subject to inspection.