

TO BE RESCINDED

5123:2-7-30

Intermediate care facilities - exception review process.

(A) Purpose

The purpose of this rule is to set forth the process by which the department shall conduct exception reviews.

(B) Definitions

- (1) "Exception review" means a review conducted of selected intermediate care facilities by appropriate health professionals employed by or under contract with the department for purposes of identifying inaccuracies related to the individual assessment form data submitted in accordance with rule 5123:2-7-20 of the Administrative Code, which result in inaccurate case mix scores being used to calculate an intermediate care facility's direct care rate. Exception reviews shall be conducted before the annual rates are established pursuant to section 5124.15 of the Revised Code. Exception reviews shall be conducted in accordance with applicable provisions of the medicaid program.
- (2) "Exception review tolerance level" means an acceptable level of variance in the calculation of the quarterly facility average case mix score of the intermediate care facility. The variance is calculated as a percentage of the difference between the score based on exception review findings compared to the score based on the individual assessment form data submitted by the intermediate care facility for that quarter. The exception review tolerance level is a two per cent difference between the quarterly facility average case mix score based on exception review findings and the quarterly facility average case mix score based on individual assessment form data submitted by the intermediate care facility.
- (3) "Resident assessment classification system" means the system for classifying residents of intermediate care facilities into case mix classifications used by the department to gather data for the direct care payment system. The case mix classifications are clusters of intermediate care facility residents, defined by resident characteristics, that explain resource use.

(C) Selection process

- (1) The department shall select intermediate care facilities for exception review based on:

- (a) The findings of a certification survey conducted by the Ohio department of health that may indicate that the intermediate care facility is not accurately assessing residents which may result in inaccurate classification of the residents in the resident assessment and classification system;
 - (b) A risk analysis of an intermediate care facility with a noticeable change in the frequency distribution of the residents in the resident assessment classification system classifications not attributable to a change in resident population or a significant change in the intermediate care facility's average case mix score not attributable to a change in resident population or an intermediate care facility for which other data indicate that the individual assessment form data submitted by the intermediate care facility may not result in accurate classification of the intermediate care facility's residents in the resident assessment classification system; or
 - (c) Prior resident assessment performance of the intermediate care facility, including, but not limited to, ongoing problems with assessment submission deadlines, error rates, incorrect assessment dates, and apparent unchanged assessment practices following the department's review performed pursuant to section 11 of House Bill 303 of the 129th General Assembly or a subsequent exception review.
- (2) The department may contact an intermediate care facility during the selection process for clarification of information. The intermediate care facility may be able to satisfactorily resolve the department's concerns and avert an on-site review.

(D) Requirements for persons conducting exception reviews

Exception reviews shall be conducted at the intermediate care facility by qualified intellectual disability professionals, registered nurses, and other licensed or certified health professionals employed by or under contract with the department. When a team of department reviewers conducts an on-site exception review, the team shall be led by a qualified intellectual disability professional. Persons conducting exception reviews shall meet the following conditions:

- (1) During the period of their employment or contract with the department, reviewers must neither have nor be committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of an intermediate care facility which they review in Ohio. Employment of a member of a reviewer's family by an intermediate care facility that the reviewer does not review does not

constitute a direct or indirect financial interest in the ownership, financing, or operation of an intermediate care facility.

- (2) Reviewers shall not review any intermediate care facility that has been a client or employer of the reviewer during the previous twelve months.
- (3) Reviewers shall not review any intermediate care facility where a member of the reviewer's family is a current resident.

(E) Prior notice

The department shall notify the intermediate care facility by telephone at least two working days prior to the exception review. At the discretion of the department, the review team may reschedule the exception review if appropriate key personnel of the intermediate care facility are unavailable on the originally scheduled date of the on-site portion of the exception review.

(F) Access to persons and information

Intermediate care facilities selected for exception reviews shall provide department reviewers with reasonable access to residents, professional and unlicensed direct care staff, the intermediate care facility assessors, and residents' completed individual assessment forms, as well as other documentation regarding residents' care needs and treatment. Intermediate care facilities shall also provide the department with sufficient information to be able to contact residents' attending or consulting physicians, other professionals from all disciplines who have observed, evaluated, or treated residents such as contracted therapists, and residents' family/significant others. These sources of information may help to validate information provided on the individual assessment form data submitted to the department. Verification activities may include reviewing residents' individual assessment forms and supporting documentation, conducting interviews with staff knowledgeable about the resident, and observing or interviewing the resident.

(G) Exception review sample

An exception review shall be conducted of a pre-selected random, targeted, or combination sample of completed individual assessment forms from the reporting quarter. If the results of the pre-selected sample indicate inaccuracies which require a larger sample, the department may expand the sample.

(H) Exit conference

At the conclusion of the on-site portion of the exception review process, department reviewers shall hold an exit conference with intermediate care facility representatives.

Reviewers shall share preliminary findings and/or concerns about verification or failure to verify resident assessment classification system classifications for reviewed records. At the time of the exit conference, the intermediate care facility shall be afforded an opportunity to present additional information or items which depict the needs of residents for whom the intermediate care facility contests the sample findings.

(I) Written summary of exception review findings

All exception reviews shall include a written summary of exception review findings. The department shall send a copy of the written summary of findings to the intermediate care facility.

(J) Records retention

All exception review reports shall be retained by the department for at least six years from the date the exception review report is final.

(K) Calculation or recalculation of resident case mix scores

If the exception review tolerance level is exceeded, the department shall use the exception review findings to calculate or recalculate resident case mix scores, quarterly facility average case mix scores, and annual facility average case mix scores. Calculations or recalculations shall apply only to records actually reviewed by the department and shall not be based on extrapolations of findings to unreviewed records. Rates calculated based on exception review findings may result in an increase or decrease compared to the rate based on the intermediate care facility's assessment of information.

(L) Reconsideration

(1) An intermediate care facility may submit a written request for reconsideration to the department not later than thirty days after it receives the written summary of exception review findings pursuant to paragraph (I) of this rule. The request shall include:

- (a) A detailed explanation of the items in the assessment results that the intermediate care facility disputes;
- (b) Copies of relevant supporting documentation from specific resident records;
and
- (c) The intermediate care facility's proposed resolution of the disputes.

- (2) The department shall consider all of the information submitted by the intermediate care facility, the historic results of the assessments, and any other information determined necessary for consideration.
- (3) The department shall issue a written decision regarding reconsideration within thirty days of receiving the request.
- (4) The department's decision is final and not subject to further appeal.
- (5) When calculating intermediate care facility case mix scores, the department shall use any resident case mix scores adjusted as a result of a rate consideration determination.

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Five Year Review (FYR) Dates: 4/23/2018

CERTIFIED ELECTRONICALLY

Certification

06/28/2018

Date

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