

5123-7-05

Intermediate care facilities for individuals with intellectual disabilities - payment during the Ohio department of health administrative appeals process for termination or non-renewal of medicaid certification.

(A) Purpose

This rule clarifies conditions under which payment may be made to an intermediate care facility for individuals with intellectual disabilities (ICFIID) during proposed termination or non-renewal and upon termination or non-renewal of the ICFIID's medicaid certification by the Ohio department of health.

(B) Definitions

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

- (1) "Effective date of termination" means the date set by the Ohio department of health or the United States department of health and human services for the termination of medicaid certification.
- (2) "Informal reconsideration" is the process by which an ICFIID may refute in writing, prior to the termination or non-renewal of medicaid certification, the Ohio department of health's findings on which the termination or non-renewal is based. The ICFIID must receive a written response to the informal reconsideration request which either affirms or reverses the survey decisions. Informal reconsideration is a process independent of the formal appeal. An ICFIID may or may not choose to utilize informal reconsideration.

(C) Informal reconsideration

In addition to or in conjunction with the appeals process, an ICFIID may request informal reconsideration. If informal reconsideration results in an affirmation of the original survey findings, the appeals process moves forward to the administrative hearing if one was requested. If informal reconsideration results in a reversal of the original survey findings, the Ohio department of health's termination or non-renewal action, based on those original findings, is dismissed.

(D) Payment during the appeals process

- (1) During the appeals process provided by the Ohio department of health in accordance with rule 3701-63-01 of the Administrative Code for the proposed termination or non-renewal of medicaid certification, payment under regulations for covered services provided to eligible residents ~~shall~~ will continue through the earlier of:

- (a) The date of issuance of a final order of adjudication that upholds the Ohio department of health's termination or non-renewal action; or
 - (b) The one hundred twentieth calendar day after the effective date of termination of the ICFIID's provider agreement.
 - (2) Payment may be provided up to an additional thirty calendar days following either the cessation of payment on the one hundred twentieth calendar day post termination or non-renewal~~;~~, or after the issuance of an adjudication order that upholds the termination or non-renewal action. Payment will be available if both of the following conditions are met:
 - (a) Payment is for residents admitted to the ICFIID before the effective date of termination or non-renewal; and
 - (b) The ICFIID cooperates with federal, state, and local entities in the effort to transfer residents to other facilities or community programs that can meet the residents' needs.
- (E) Payment following termination of medicaid certification
- (1) When the Ohio department of medicaid acts under instructions from the United States department of health and human services, payment ends on the termination date specified by that agency.
 - (2) When the Ohio department of health certifies that there is jeopardy to residents' health and safety by issuing an order under Chapter 5165. of the Revised Code, or when ~~it~~ [the Ohio department of health](#) fails to certify that there is no jeopardy, payment will end on the effective date of termination.
- (F) Termination of provider agreement
- When an ICFIID's medicaid certification is terminated or not renewed, the Ohio department of medicaid ~~shall~~ [will](#) terminate the ICFIID's provider agreement.