

## **\*\*\*To Be Rescinded\*\*\***

### **5123:2-7-31      ~~Intermediate care facilities for individuals with intellectual disabilities— —recoupment of downsizing incentive.~~**

#### **~~(A) Purpose~~**

~~This rule establishes a process for the recoupment of a downsizing incentive from an intermediate care facility for individuals with intellectual disabilities (ICFID) when the ICFID obtained department approval to become a downsized ICFID pursuant to section 5124.39 of the Revised Code and does not become a downsized ICFID on or before July 1, 2018.~~

#### **~~(B) Definitions~~**

- ~~(1) "Department" means the Ohio department of developmental disabilities.~~
- ~~(2) "Downsized ICFID" has the same meaning as in section 5124.01 of the Revised Code.~~
- ~~(3) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.~~

#### **~~(C) Amount of recoupment~~**

- ~~(1) On or before January 1, 2018, the department shall survey each ICFID with an approved downsizing plan to determine if the ICFID will in fact become a downsized ICFID on or before July 1, 2018. An ICFID shall respond to the department in writing on or before February 1, 2018.~~
- ~~(2) When the department determines that the ICFID will not become a downsized ICFID on or before July 1, 2018, the department shall calculate the amount of the recoupment in accordance with division (A)(1) of section 5124.39 of the Revised Code and send notice to the ICFID by registered mail, return receipt requested, of the amount due.~~
- ~~(3) The amount of the recoupment calculated in accordance with paragraph (C)(2) of this rule shall be due and payable as of July 1, 2018.~~

#### **~~(D) Interest~~**

- ~~(1) Except as provided in paragraph (D)(2) of this rule, the department shall charge interest on the amount of the recoupment that is equal to the current average bank prime rate as determined pursuant to section 5124.43 of the Revised Code. Interest on the amount shall begin to accrue from the date the rate was calculated based on the ICFID's approved downsizing plan.~~
- ~~(2) The department shall not charge interest on the amount of the recoupment when:~~
  - ~~(a) An ICFID voluntarily repays the amount determined by the department to be subject to recoupment; or~~

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- ~~(b) An ICFIID voluntarily repays the amount determined by the department to be subject to recoupment when it reports to the department in writing on or before February 1, 2018 that it will not become a downsized ICFIID on or before July 1, 2018, and notifies the department of the method of repayment in accordance with paragraph (E)(2) of this rule.~~

### ~~(E) Payment methods~~

- ~~(1) On or before July 1, 2018, an ICFIID subject to recoupment shall notify the department in writing of the desired method by which to make the repayment.~~
- ~~(2) The repayment may be made:~~
  - ~~(a) In a lump sum payment to the department;~~
  - ~~(b) In a single deduction from the ICFIID's next scheduled medicaid payment as long as the deduction will equal the total amount due to the department;~~
  - ~~(c) Pursuant to a written agreement between the department and the ICFIID, in installment payments to the department for a period not to exceed six months; or~~
  - ~~(d) Pursuant to a written agreement between the department and the ICFIID, in installment deductions from the ICFIID's next scheduled medicaid payments for a period not to exceed six months.~~
- ~~(3) The department's decision to allow or disallow repayment by the methods described in paragraphs (E)(2)(c) and (E)(2)(d) of this rule is final and not subject to appeal.~~

### ~~(F) Request for exemption from recoupment~~

- ~~(1) On or before July 1, 2018, an ICFIID subject to recoupment may request in writing that the department exempt it from recoupment by providing proof to the department that:~~
  - ~~(a) The ICFIID made a good faith effort to become a downsized ICFIID in accordance with its approved plan by July 1, 2018, but was unable to complete the downsizing for reasons beyond the ICFIID's control; and~~
  - ~~(b) The ICFIID provides the department with a plan and timeline to ensure that the ICFIID becomes a downsized ICFIID within a reasonable period of time after July 1, 2018.~~
- ~~(2) The department shall consider all of the information submitted by the ICFIID and issue a written decision regarding the exemption from recoupment within thirty calendar days of receiving the request.~~
- ~~(3) Subject to the provisions of paragraph (H) of this rule, the department's decision to allow or disallow the request for exemption from recoupment is final and not subject to further appeal.~~

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### ~~(G) Nonconformity with terms of exemption from recoupment~~

~~If an ICFHD receives an exemption from recoupment in accordance with paragraph (F) of this rule and fails to become a downsized ICFHD on or before the date set forth in the approved exemption:~~

- ~~(1) The department shall calculate the amount of the recoupment in accordance with division (A)(1) of section 5124.39 of the Revised Code and send notice to the ICFHD by registered mail, return receipt requested, of the amount due.~~
- ~~(2) The amount of the recoupment calculated in accordance with paragraph (G)(1) of this rule shall be due and payable no later than ten calendar days after the ICFHD receives notice of the amount due.~~
- ~~(3) The department shall charge interest on the amount of the recoupment that is equal to the current average bank prime rate as determined pursuant to section 5124.43 of the Revised Code. Interest on the amount shall begin to accrue from the date the rate was calculated based on the ICFHD's original approved downsizing plan.~~
- ~~(4) Paragraph (D)(2) of this rule shall not apply.~~

### ~~(H) Request for reconsideration~~

- ~~(1) An ICFHD may submit a written request for reconsideration to the department no later than ten calendar days after it receives the notice of recoupment pursuant to paragraph (C) or (G) of this rule. The request for reconsideration may ask the department to reconsider that the ICFHD is subject to recoupment or may ask the department to reconsider the amount of the recoupment.~~
- ~~(2) The department shall consider all of the information submitted by the ICFHD and issue a written decision regarding reconsideration within thirty calendar days of receiving the request.~~
- ~~(3) The department's decision regarding the request for reconsideration is final and not subject to further appeal.~~