# ***To Be Rescinded***

**5123-7-30** **Intermediate care facilities for individuals with intellectual disabilities - exception review process for individual assessment form data.**

(A) Purpose

This rule sets forth a process by which the department shall conduct exception reviews related to individual assessment form data submitted by an intermediate care facility for individuals with intellectual disabilities (ICFIID).

(B) Definitions

(1) "Annual facility average case mix score" has the same meaning as in rule 5123-7-20 of the Administrative Code.

(2) "Case mix score" has the same meaning as in rule 5123-7-20 of the Administrative Code.

(3) "Exception review" means a review conducted of an ICFIID by qualified intellectual disability professionals, registered nurses, or other licensed or certified health professionals employed by or under contract with the department for purposes of identifying inaccuracies related to the individual assessment form data submitted by the ICFIID in accordance with rule 5123-7-20 of the Administrative Code, which result in inaccurate case mix scores being used to calculate an ICFIID'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.

(4) "Exception review tolerance level" means an acceptable level of variance in the calculation of the ICFIID's quarterly facility average case mix score. 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 ICFIID 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 ICFIID.

(5) "Individual assessment form" means the instrument used to assess the needs and circumstances of an individual with developmental disabilities for the purpose of calculating an ICFIID's direct care costs pursuant to sections 5124.195 to 5124.198 of the Revised Code.

(6) "Quarterly facility average case mix score" has the same meaning as in rule 5123-7-20 of the Administrative Code.

(7) "Resident assessment classification system" has the same meaning as in rule 5123-7-20 of the Administrative Code.

(C) Selection and review process

(1) The department shall select an ICFIID for exception review based on:

    (a) The findings of a certification survey conducted by the Ohio department of health that may indicate that the ICFIID is not accurately assessing residents which may result in inaccurate classification of the residents in the resident assessment classification system;

    (b) A risk analysis of an ICFIID 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 ICFIID's average case mix score not attributable to a change in resident population or an ICFIID for which other data indicate that the individual assessment form data submitted by the ICFIID may not result in accurate classification of the residents in the resident assessment classification system; or

    (c) Prior resident assessment performance of the ICFIID, 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 ICFIID during the selection process for clarification of information. The ICFIID may be able to satisfactorily resolve the department's concerns and avert an exception review.

(3) At the discretion of the department, an exception review may be conducted on-site at an ICFIID or by desk review except that an exception review shall be conducted on-site at an ICFIID when so requested by the ICFIID.

(D) Requirements for persons conducting exception reviews

(1) Qualified intellectual disability professionals, registered nurses, and other licensed or certified health professionals employed by or under contract with the department shall successfully complete department-approved training in administration of the individual assessment form prior to conducting exception reviews.

(2) Persons conducting exception reviews shall meet the following conditions:

    (a) 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 ICFIID which they review in Ohio. Employment of a member of a reviewer's family by an ICFIID that the reviewer does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of an ICFIID.

    (b) Reviewers shall not review any ICFIID that has been a client or employer of the reviewer during the previous twelve months.

(c) Reviewers shall not review any ICFIID where a member of the reviewer's family is a current resident.

(3) When a team of department reviewers conducts an on-site exception review, the team shall be led by a qualified intellectual disability professional.

(E) Prior notice

The department shall notify an ICFIID by telephone at least five calendar days prior to an exception review. At the discretion of the department, the review team may reschedule the exception review if appropriate key personnel of the ICFIID are unavailable on the originally scheduled date of an on-site exception review.

(F) Access to persons and information

An ICFIID selected for exception review shall provide department reviewers with reasonable access to residents, professional and unlicensed direct care staff, staff who assess residents, and residents' completed individual assessment forms, as well as other documentation regarding residents' care needs and treatment. An ICFIID 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 an exception review , department reviewers shall conduct an exit conference with representatives of the ICFIID. At the discretion of the department, the exit conference may be conducted on-site at the ICFIID or by telephone. 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 ICFIID shall be afforded an opportunity to present additional information or items which depict the needs of residents for whom the ICFIID 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 ICFIID.

(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 ICFIID's assessment of information.

(L) Reconsideration

(1) An ICFIID may submit a written request for reconsideration to the department not later than thirty calendar 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 ICFIID disputes;

(b) Copies of relevant supporting documentation from specific resident records; and

(c) The ICFIID's proposed resolution of the disputes.

(2) Qualified intellectual disability professionals, registered nurses, or other licensed or certified health professionals employed by or under contract with the department, other than those who conducted the exception review, shall consider all of the information submitted by the ICFIID, 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 calendar days of receiving the request.

(4) The department's decision is final and not subject to further appeal.

(5) When calculating an ICFIID's case mix scores, the department shall use any resident case mix scores adjusted as a result of a rate consideration determination.