

**Title 23: Division of Medicaid**

**Part 207: Institutional Long Term Care**

**Chapter 3: Intermediate Care Facility for Individuals with Intellectual Disabilities  
(ICF/IID)**

*Rule 3.2: Provider Enrollment/Provider Agreement*

- A. The duration of an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) Medicaid provider agreement is for the same period of time as an ICF/IID's certification or recertification for participation by the Mississippi State Department of Health (MSDH).
- B. The certification or recertification for an ICF/IID remains in effect until it is determined that the ICF/IID is no longer in compliance with the Conditions of Participation as determined by MSDH and/or the Centers for Medicare and Medicaid Services(CMS).
  - 1. ICF/IIDs must be surveyed by MSDH licensure and certification:
    - a) No later than fifteen (15) months after the last day of the previous survey to determine compliance with the Conditions of Participation, and
    - b) At a state-wide average interval of twelve (12) months or less which is computed at the end of each federal fiscal year by comparing the last day of the most recent survey for each participating facility to the last day of each facility's previous survey.
  - 2. ICF/IIDs in compliance with the Conditions of Participation with standard level deficiencies, defined as when there is noncompliance with any single requirement or several requirements within a particular standard that are not of such character as to substantially limit a facility's capacity to furnish adequate care, or which would not jeopardize or adversely affect the health or safety of beneficiaries if the deficient practice recurred, may be conditionally certified with the understanding that certification will continue if either of the following applies:
    - a) All deficiencies have been satisfactorily corrected, or
    - b) The ICF/IID has made substantial progress in correcting the deficiencies and has a new plan of correction that is acceptable.
- C. The Division of Medicaid may deny payment for new admissions to an ICF/IID that no longer meets the applicable Conditions of Participation as determined by MSDH and/or CMS.
  - 1. The Division of Medicaid will:

- a) Provide the facility up to sixty (60) days to come into compliance with the Conditions of Participation, and
    - b) Notify the facility of the intent to deny payment for new admissions and an opportunity for an informal hearing.
  2. The Division of Medicaid will provide an informal hearing upon written request which includes:
    - a) The opportunity to present to a Division of Medicaid official not involved in making the initial determination, evidence or documentation, in writing or in person, to refute the decision that the facility is out of compliance with the Conditions of Participation, and
    - b) A written decision stating the facts and legal basis governing the resolution of the dispute.
  3. If the decision of the informal hearing is to deny payment for new admissions the Division of Medicaid will inform the facility and the public at least fifteen (15) days before the effective date of the sanction with a notice that includes the:
    - a) Effective date of the denial of payments, and
    - b) Reasons for the denial of payments.
- D. The denial of payments for new admissions will continue for eleven (11) months after the month it was imposed unless, before the end of that period:
1. The ICF/IID has come into compliance or is making a good faith effort to achieve compliance with the Conditions of Participation and the deficiencies do not present an immediate jeopardy to residents' safety and health, or
  2. The non-compliance is such that it presents an immediate jeopardy to residents' safety and health and it is necessary to terminate the facility's provider agreement.
- E. The Division of Medicaid must terminate an ICF/IID's provider agreement if an ICF/IID has been unable to achieve compliance with the Conditions of Participation during the period that payments for new admissions have been denied with the termination effective the day following the last day of the denial of payments.
- F. When a provider agreement is terminated, the Division of Medicaid may continue to make payments for up to thirty (30) days to provide time for an orderly transfer of residents, whose primary source of payment is Medicaid, as specified in federal law. The ICF/IID must notify every resident, whose primary source of payment is Medicaid, and/or guardian or legal representative in writing within forty-eight (48) hours of receipt by the facility of the termination letter.

G. An ICF/IID may request an evidentiary hearing in writing within sixty (60) days of the receipt of the notice of a denial of payments or notice of termination or nonrenewal of its provider agreement.

1. The evidentiary hearing must be completed either before the effective date of the adverse action or within one hundred twenty (120) days after said date, and
2. If the hearing is made available only after the effective date of the action, the Division of Medicaid will, before that date, offer the ICF/IID an informal reconsideration that meets the following requirements:
  - a) Written notice to the facility of the denial, termination or nonrenewal and the findings upon which it was based,
  - b) A reasonable opportunity for the facility to refute those findings in writing, and
  - c) A written affirmation or reversal of the denial, termination, or nonrenewal.

Source: 42 CFR §§ 431.108, 431.153, 431.154, 442.15, 442.109, 442.110, 442.117, 442.118, 442.119; Miss. Code Ann. § 43-13-121.

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