

## **Title 23: Division of Medicaid**

### **Part 207: Institutional Long-Term Care Facilities**

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

##### *Rule 3.4: Per Diem*

- A. The Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) must provide for all items and services required to meet the needs of a resident according to the comprehensive functional assessment and the individual program plan.
- B. Items and services covered by Medicare or any other third party must be billed to Medicare or the other third party and are considered non-allowable on the cost report. Applicable crossover claims must also be filed with the Division of Medicaid.
- C. The following items and services are included in the Medicaid per diem rates and cannot be billed separately to the Division of Medicaid or charged to a resident:
  - 1. Room/bed maintenance services.
  - 2. Nursing services.
  - 3. Physical Therapy (PT), Occupational Therapy (OT), and Speech-Language Pathology (SLP) services.
  - 4. Dietary services, including nutritional supplements.
  - 5. Activity services.
  - 6. Medically-related social services.
  - 7. Routine personal hygiene items and services.
  - 8. Laundry services including the residents' personal laundry.
  - 9. Over-the-counter (OTC) drugs.
  - 10. Legend drugs not covered by the Medicaid program, Medicare, private, Veteran's Administration (VA) or any other payor source.
  - 11. Medical supplies including, but not limited to, those listed below. The Division of Medicaid defines medical supplies as medically necessary disposable items, primarily serving a medical purpose, having therapeutic or diagnostic characteristics essential in enabling a resident to effectively carry out a practitioner's prescribed treatment for

illness, injury, or disease and appropriate for use in the ICF/IID. [Refer to Miss. Admin. Code Part 207, Rule 3.4.D. for medical supplies which must be billed outside the per diem rate.]

- a) Enteral supplies,
  - b) Diabetic supplies,
  - c) Diapers and blue pads, and
  - d) Oxygen administration supplies.
12. Durable medical equipment (DME), except for DME listed in Miss. Admin. Code Part 207, Rule 3.4.D. The Division of Medicaid defines DME as an item that (1) can withstand repeated use, (2) is primarily and customarily used to serve a medical purpose, (3) is generally not useful to a resident in the absence of illness, injury or congenital defect, and (4) is appropriate for use in the ICF/IID. [Refer to Miss. Admin. Code Part 207, Rule 3.4.D. for DME which must be billed outside the per diem rate.]
13. Routine personal hygiene items and services as required to meet the needs of the residents including, but not limited to:
- a) Hair hygiene supplies,
  - b) Comb and brush,
  - c) Bath soap,
  - d) Disinfecting soaps or specialized cleansing agents when indicated to treat special skin problems or to fight infection,
  - e) Razor and shaving cream,
  - f) Toothbrush and toothpaste,
  - g) Denture adhesive and denture cleaner,
  - h) Dental floss,
  - i) Moisturizing lotion,
  - j) Tissues, cotton balls, and cotton swabs,
  - k) Deodorant,
  - l) Incontinence care and supplies,

- m) Sanitary napkins and related supplies,
- n) Towels and washcloths,
- o) Hair and nail hygiene services, including shampoos, trims and simple haircuts as part of routine grooming care, and
- p) Bathing.

14. Private room coverage as medically necessary.

- a) The Medicaid per diem reimbursement rate includes reimbursement for a resident's placement in a private room if medically necessary and ordered by a physician. The Medicaid reimbursement for a medically necessary private room is considered payment in full for the private room. The resident, the resident's family or the Division of Medicaid cannot be charged for the difference between a private and semi-private room if medically necessary.
- b) The resident may be charged the difference between the private room rate and the semi-private room rate when it is the choice of the resident or family if the provider informs the resident in writing of the amount of the charge at the time of admission or when the resident becomes eligible for Medicaid.

D. The following items and services are not included in the Medicaid per diem rates, are considered non-allowable costs on the ICF/IID's cost report and must be billed directly to the Division of Medicaid by a separate provider with a separate provider number from that of the ICF/IID:

1. Laboratory services,
2. X-ray services,
3. Drugs covered by the Medicaid drug program,
4. Ostomy supplies,
5. Oxygen cylinders and the contents,
6. Continuous Positive Airway Pressure (CPAP) Devices effective January 2, 2015,
7. Bi-level Positive Airway Pressure (BiPAP) Devices effective January 2, 2015, and/or
8. Individualized, resident specific custom manual and/or custom motorized/power wheelchairs uniquely constructed or substantially modified for a specific resident when prior authorized by a Utilization Management/Quality Improvement Organization

(UM/QIO), the Division of Medicaid, or a designated entity effective January 2, 2015.  
[Refer to Miss. Admin. Code Part 207, Rule 3.10 for definition and coverage criteria]

E. All ICF/IID's must prominently display the below information in the ICF/IID, and provide to applicants for admission and residents the below information in both oral and written form:

1. How to apply for and use Medicare and Medicaid benefits, and
2. How to receive refunds for previous payments covered by such benefits.

F. The ICF/IID must:

1. Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the ICF/IID or when the resident becomes eligible for Medicaid of:
  - a) The items and services that are included in the ICF/IID services under the State Plan and for which the resident may not be charged, and
  - b) Those other items and services that the ICF/IID offers and for which the resident may be charged, and the amount of charges for those services.
2. Inform each resident when changes are made to the items and services specified in Miss. Admin. Code Part 207, Rule 3.4.F.1.
3. Inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.
4. Notify the resident and the resident's guardian or legal representative of a transfer or discharge in an easily understood written notice.
  - a) The notice of transfer or discharge must be given at least thirty (30) calendar days prior to the transfer or discharge unless:
    - 1) The safety or health of the individuals in the facility would be endangered,
    - 2) The resident no longer requires the level of care provided by the facility,
    - 3) An immediate transfer or discharge is required by the resident's urgent medical needs, or
    - 4) The resident has not resided in the facility for thirty (30) calendar days.
  - b) The notice must include the following information:

- 1) The reason for the transfer or discharge,
  - 2) The effective date of the transfer or discharge,
  - 3) The location to which the resident is being transferred or discharged,
  - 4) A statement that the resident has the right to appeal the action to the appropriate state authorities,
  - 5) The name, address and telephone number of the State long-term care ombudsman,
  - 6) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals, and
  - 7) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals.
5. Maintain physician documentation in the medical record of transfers or discharges and the reasons for the transfer or discharge.
  6. Provide sufficient preparation and orientation to residents to ensure safe and orderly transfers or discharges.
- G. The ICF/IID may charge any amount greater than or equal to the Medicaid rate for non-Medicaid residents for items and services, consistent with the notice stated in Miss. Admin. Code Part 207, Rule 3.4.F.
1. The ICF/IID's non-Medicaid per diem rate may be set above the Medicaid per diem rate, but the items and services included in the non-Medicaid rate must be identical to the items and services included in the Medicaid per diem rate.
  2. Items and services available in the ICF/IID not covered under Title XVIII or the ICF/IID's Medicaid per diem rate must be available and priced identically for all residents in the facility.
- H. An ICF/IID cannot require a deposit before admitting a card-carrying Medicaid beneficiary.
- I. Refer to Miss. Admin. Code Part 224, Rule 1.4 for coverage of immunizations.

Source: 42 CFR §§ 483.12, 483.440; Miss. Code Ann. §§ 43-13-117, 43-13-121.

History: Added Miss. Admin. Code Part 207, Rule 3.4.F.4.-6., eff. 04/01/2016. Revised eff. 01/02/2015.

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2. Inform each resident when changes are made to the items and services specified in Miss. Admin. Code Part 207, Rule 3.4.F.1.
3. Inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.
4. Notify the resident and the resident's guardian or legal representative of a transfer or discharge in an easily understood written notice.
  - a) The notice of transfer or discharge must be given at least thirty (30) calendar days prior to the transfer or discharge unless:
    - 1) The safety or health of the individuals in the facility would be endangered,
    - 2) The resident no longer requires the level of care provided by the facility,
    - 3) An immediate transfer or discharge is required by the resident's urgent medical needs, or
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  - b) The notice must include the following information:

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  - 2) The effective date of the transfer or discharge,
  - 3) The location to which the resident is being transferred or discharged,
  - 4) A statement that the resident has the right to appeal the action to the appropriate state authorities,
  - 5) The name, address and telephone number of the State long-term care ombudsman,
  - 6) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals, and
  - 7) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals.
5. Maintain physician documentation in the medical record of transfers or discharges and the reasons for the transfer or discharge, ~~if the resident is being transferred or discharged due to changes in the resident's health.~~
6. Provide sufficient preparation and orientation to residents to ensure safe and orderly transfers or discharges.

G. The ICF/IID may charge any amount greater than or equal to the Medicaid rate for non-Medicaid residents for items and services, consistent with the notice stated in Miss. Admin. Code Part 207, Rule 3.4.F.

1. The ICF/IID's non-Medicaid per diem rate may be set above the Medicaid per diem rate, but the items and services included in the non-Medicaid rate must be identical to the items and services included in the Medicaid per diem rate.
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H. An ICF/IID cannot require a deposit before admitting a card-carrying Medicaid beneficiary.

I. Refer to Miss. Admin. Code Part 224, Rule 1.4 for coverage of immunizations.

| Source: 42 C-F-R: §§ 483.12, 483.440; Miss. Code Ann. §§ 43-13-117, 43-13-121.

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