

## Wyoming Administrative Rules

# Health, Department of

## Medicaid

### Chapter 25: ICF/MR Services

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## CHAPTER XXV

### ICF/MR SERVICES

#### Section 1. Authority.

This rule is promulgated by the Department of Health pursuant to the Medical Assistance and Services Act at W.S. 42-4-101 et seq) and the Wyoming Administrative Procedures Act at W.S. 16-3101 et seq.

#### Section 2. Applicability.

This rule shall apply to and govern the participation in the Medicaid program by providers of ICF/MR services. ICF/MR services are also subject to the provisions of Chapter XX.

#### Section 3. General Terms.

(a) This rule shall apply to and govern services provided in ICFs/MR. It is intended that this rule implement and be read in conjunction with the provisions of W.S. 42-4-103(a)(xxii) and Chapter XX.

(b) The Department may issue Manuals to providers and/or other affected parties to interpret the provisions of this rule. Such manuals shall be consistent with and reflect the policies contained in this rule.

#### Section 4. Definitions.

(a) “Admission.” The act that allows an individual to officially enter a facility to receive services.

(b) “Applicant.” A person, including a patient, who has applied for Medicaid benefits and is a resident or is seeking admission to a facility.

(c) “Certified.” A facility that is certified pursuant to 42 C.F.R. 442 Subpart C, which is incorporated by this reference, to provide ICF/MR services.

(d) “Chapter III.” Chapter III, Provider Participation, of the Wyoming Medicaid Rules.

(e) “Chapter XX.” Chapter XX, Reimbursement of Intermediate Care Facilities for the Mentally Retarded, of the Wyoming Medicaid rules.

(f) “Classification in Mental Retardation.” The Classification in Mental Retardation (1983 ed.) of the American Association on Mental Deficiency, which is hereby incorporated by reference. The book is published by the American Association on Mental Deficiency in Washington, D.C., and is available from the publisher.

(g) “Covered service.” ICF/MR services.

(h) “Date of Admission.” The date an individual enters a facility and begins receiving services.

(i) “Department.” The Wyoming Department of Health, its agent, designee or successor.

(j) “Discharge.” The act by which an individual who has been a patient in a facility ceases to be a patient and the facility ceases to be legally responsible for providing care for such individual. “Discharge” does not include an individual’s temporary absence.

(k) “Division.” The Division of Health Care Financing of the Department, its agent, designee or successor.

(l) “Evaluation of need for ICF/MR services.” A review, pursuant to Section 8, by an IDT or such other person or entity specified by the Department, of an applicant’s or recipient’s physical and mental condition for the purpose of determining whether ICF/MR services are medically necessary.

(m) “Facility.” An ICF/MR.

(n) “HCFA.” The Health Care Financing Administration of the United States Department of Health and Human Services.

(o) “Interdisciplinary team (IDT).” A team of professionals which includes a QMRP, a social worker and a registered nurse.

(p) “Individual educational plan (IEP).” A written plan for children under the age of twenty-one developed by the IDT, in consultation with the child’s school district, using standard assessments and standard evaluative measures to determine the strengths and needs of an individual. The IEP shall include short term and long term goals, and the training and treatment programs to achieve those goals.

(q) “Individual program plan (IPP).” A written plan developed by the IDT using standard assessments and standard evaluative measures to determine the strengths and needs of an individual. The IPP shall include short term and long term goals, and the training and treatment programs to achieve those goals.

(r) “Infirmity services.” Sub-acute hospital services provided on the premises of a facility.

(s) “Intermediate care facility for the mentally retarded (ICF/MR).” An intermediate care facility as defined by 42 U.S.C. 1396d(c) that has at least fifteen certified beds. “ICF/MR” includes that portion of the Wyoming State Training School which is certified to provide ICF/MR services.

(t) “Intermediate care facility for the mentally retarded (ICF/MR) services.” Intermediate care facility services for the mentally retarded as defined in 42 U.S.C. 1396d(d) and the regulations promulgated by HCFA, and which are provided in an ICF/MR.

(u) “Local agency.” The County field office of the Wyoming Department of Family Services.

(v) “Medicaid.” Medical assistance and services provided pursuant to Title XIX of the Social Security Act and the Wyoming Medical Assistance and Services Act.

(w) “Medicaid allowable payment.” The maximum Medicaid reimbursement as determined pursuant to Chapter XX and the other rules of the Department.

(x) “Medical necessity” or “medically necessary.” A health service that is required to diagnose, treat, cure or prevent an illness, injury or disease which has been diagnosed or is reasonably suspected; to relieve pain; or to improve and preserve health and be essential to life. The service must be:

(i) Consistent with the diagnosis and treatment of the recipient’s condition;

(ii) In accordance with the standards of good medical practice among the provider’s peer group;

(iii) Required to meet the medical needs of the recipient and undertaken for reasons other than the convenience of the recipient or the provider; and

(iv) Provided in the least costly setting required by the recipient’s condition.

(y) “Medicare.” The health insurance program for the aged and disabled established pursuant to Title XVIII of the Social Security Act.

(z) “Mentally retarded or mental retardation.” An individual with mild, moderate, severe or profound retardation as defined by the Classification in Mental Retardation, or a person with a related condition.

(aa) “Patient.” A resident in a facility.

(bb) “Person with a related condition.” An individual that has a severe, chronic disability that meets all of the following conditions:

(i) It is attributable to:

(A) Cerebral palsy or epilepsy; or

(B) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and requires treatment or services similar to those required for these persons;

(ii) It is manifested before the person reaches age twenty-two;

(iii) It is likely to continue indefinitely; and

(iv) It results in substantial functional limitations in three or more of the following areas of major life activity;

(A) Self care;

(B) Understanding the use of language;

(C) Learning;

(D) Mobility;

(E) Self-direction; and

(F) Capacity for independent living.

(cc) “Physician.” A person licensed to practice medicine or osteopathy by the Wyoming State Board of Medical Examiners or a comparable agency in another state.

(dd) “Provider.” An ICF/MR that has a provider agreement with the Department and that is certified to provide services to recipients.

(ee) “Qualified mental retardation professional (QMRP).” A qualified mental retardation professional as defined by 42 C.F.R. 483.430, which is incorporated by this reference.

(ff) “Recipient.” A person who has been determined eligible for Medicaid.

(gg) “Registered nurse.” An person licensed to practice professional nursing by the Wyoming Board of Nursing.

(hh) “Specialized services.” A continuous program for a patient which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services that are directed toward the objective specified in paragraphs (i) and (ii). Such a program excludes services to maintain generally independent patients who are able to function with little supervision or the absence of continuous specialized treatment program.

(i) Acquisition of the behaviors necessary for the patient to function with as much self determination and independence as possible; and

(ii) Prevention or deceleration of regression or loss of current optimal functional status.

(ii) “Survey agency.” The Health Facilities Survey, Certification and Licensure Office of the Department, its designee or successor.

(jj) “Temporary absence.” When a recipient is out of a facility for hospitalization or therapeutic home visits. A recipient receiving infirmary services is not absent from the facility.

(kk) “Working days.” Monday through Friday, exclusive of State holidays.

(ll) “Wyoming state training school.” The Wyoming state training school as established pursuant to W.S. 25-5-101 et seq.

Section 5. Provider Participation.

(a) Compliance with Chapter III. A facility which wishes to receive Medicaid reimbursement for covered services furnished to a recipient must meet the requirements of Chapter III, Sections 4 through 6, which are incorporated by this reference.

(b) Conditions of participation. A facility which wishes to participate in the Medicaid program must meet the conditions of participation as set forth in 42 C.F.R. 483.400 through 483.480, which are incorporated by this reference.

Section 6. Verification of recipient data. A provider must comply with Chapter III, Section 8, which is incorporated by this reference.

Section 7. Provider Records. A provider must comply with Chapter III, Section 7, which is incorporated by this reference.

Section 8. Evaluation of need for ICF/MR services.

(a) Purpose. To determine whether ICF/MR services are medically necessary.

(b) Applicability. All applicants or recipients must undergo an evaluation of need for ICF/MR services before a facility may receive Medicaid reimbursement for services provided to that individual.

(c) Criteria. The medical necessity of ICF/MR services shall be determined using the factors in paragraphs (i) through (iv).

(i) The individual:

(A) Is mentally retarded or is a person with a related condition;

(B) Requires specialized services directed toward the development of skills necessary for maximum independence or the prevention of regression or loss of current skills and abilities;

(C) Meets the criteria of paragraphs (ii) or (iii); and

(D) Has at least one functional need specified in paragraph (iv).

(ii) Medical needs: The individual requires:

(A) Daily monitoring due to a medical condition where overall care planning is necessary; or

(B) Staff supervision due to the effects of medication.

(iii) Psychological needs. The individual:

(A) Is expected to remain in a facility for thirty or more consecutive days; and

(B) Requires supervision due to:

(I) Impaired judgment and limited capabilities;

(II) Behaviors, abusiveness or assaultiveness; or

(III) The effects of psychotropic medications.

(iv) Functional needs. The individual requires assistance with three or more of the following:

(A) Activities of daily living and self-help skills such as feeding, toileting, dressing and bathing;

(B) Ambulation or mobility;

(C) Routine incontinence care, catheter care or ostomy care; or

(D) Requires a structured and safe environment that provides 24-hour supervision.

(d) Reporting. After evaluating the individual pursuant to subsection (c), the evaluator shall complete and submit the forms specified by the Department in the manner specified by the Department.

(e) Transfers.

(i) The facility to which a recipient proposes to transfer shall not receive Medicaid reimbursement for ICF/MR services provided to the recipient unless the requirements of subsection (c) are met.

(ii) Recipients that are temporarily absent from a facility must return to the facility from which they are absent before a transfer may be executed.

(f) Readmissions. A recipient that is discharged and subsequently seeks readmission to a facility must be evaluated pursuant to this Section. The facility in which the individual resided prior to discharge or the facility into which admission is sought shall not receive Medicaid payment for ICF/MR services provided to the recipient if the recipient does not meet the requirements of subsection (c).

(g) Redetermination of Medicaid eligibility. A recipient that loses Medicaid eligibility and subsequently seeks a redetermination of Medicaid eligibility must be evaluated pursuant to this Section, even if the individual has not been discharged. The facility in which the individual resides or into which admission is sought shall not receive Medicaid payment for ICF/MR services provided to the recipient if the requirements of subsection (c) are not met.

(h) Procedure.

(i) Timely evaluation. An evaluation of need for ICF/MR services shall be timely if performed on or before the date of admission. The facility may receive Medicaid reimbursement for covered services provided on or after the date of admission if there is a timely evaluation.

(iii) Untimely evaluation. An evaluation performed after the date of admission is not timely. The effective date of the evaluation shall be the date the evaluation is complete. The facility may not receive medicaid reimbursement for covered services provided before the effective date of the evaluation.

(iv) The Department shall give written notice to the applicant or recipient if the evaluation of need for ICF/MR services determines that such services are not medically necessary. That determination shall be appealable pursuant to Chapter I of these rules.

(i) Not a guarantee of eligibility. An evaluation of need for ICF/MR services that determines that such services are medically necessary is not a guarantee of the individual's eligibility for Medicaid nor of Medicaid reimbursement for covered services provided to the individual.

#### Section 9. Discharge planning.

(a) Discharge plan. At least 30 days before the date a recipient is discharged from a facility, a discharge plan must be developed by the IDT.

(b) Contents of discharge plan. A discharge plan shall be in writing and shall include:

(i) In-person interviews of the recipient by the prospective referral agency;

(ii) A tour by the recipient of the prospective placement; and

(iii) Counselling with the recipient and his or her family, if possible, about the transition.

Section 10. Medicaid allowable payment for ICF/MR services. ICF/MR services shall be reimbursed pursuant to Chapter XX.

Section 11. Superseding effect. When promulgated, this Chapter supersedes all prior rules or policy statements issued by the Department, including provider manuals and provider bulletins, which are inconsistent with this Chapter.

Section 12. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.