

WYOMING MEDICAID RULES

CHAPTER ~~XX~~20

REIMBURSEMENT OF INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES (ICFs/IID)~~THE MENTALLY RETARDED~~

Section 1. Authority.

This rule is promulgated by the Department of Health and Social Services pursuant to the Medical Assistance and Services Act at W.S. §§ 42-4-101, ~~et seq.~~, through 42-4-306 ~~and the Wyoming Administrative Procedures Act at W.S. § 16-3-101 et seq.~~

Section 2. Applicability.

This rule shall apply to and govern the reimbursement of the Wyoming Life Resource Center State Operated Facility and other ICFs/IID Wyoming state training school ~~for services provided on or after January 1, 1990. This rule shall apply to and govern the reimbursement of ICF/MRs, including the Wyoming state training school, for services provided on or after July 1, 1990.~~ for services provided on or after January 1, 1990.

Section 3. General Terms.

These rules are intended to implement and be read in conjunction with the provisions of W.S. §§ 42-4-101 through 42-4-306. ~~W.S. 42-4-103(a)(xxii).~~

Section 4. Definitions.

- (a) "Certified." Approved by the Department to provide ICF/IID ~~provider ICF/MR~~ services.
- (b) "Excess payments." Medicaid funds received by a provider:
 - (i) That exceed the provider's per diem rate;
 - (ii) Pursuant to a per diem rate which is subsequently determined to be erroneous or based on erroneous information; or
 - (iii) Pursuant to an interim payment rate that is based on projected costs which exceed the facility's actual costs for the interim payment rate period.
- (c) "Facility." An ICF/IID. ~~ICF/MR.~~
- (d) "Infirmity services." Sub-acute hospital services provided on the premises of a facility.
- (e) "Interim payments." Payments to a new facility or a newly certified facility pursuant to

subsection 5(c) during the time between the effective date of the new facility's provider agreement and the determination of a per diem rate pursuant to this rule.

(f) "Intermediate care facility for individuals with Intellectual Disabilities (ICF/IID)." ~~the mentally retarded (ICF/MR).~~ An intermediate care facility as defined by 42 U.S.C. 1396d(e)(d) that has at least fifteen certified beds. ~~ICF/MR~~ "ICF/IID" includes that portion of the Wyoming Life Resource Center State Training School which is certified to provide intermediate care facility services for those with intellectual disabilities. ~~the mentally retarded.~~

(g) "Per diem rate." The Medicaid reimbursement rate determined pursuant to this rule.

(h) "Provider." An ICF/IID ~~ICF/MR~~ that has a provider agreement with the Department and that is certified ~~certified~~ to provide services to recipients.

(i) "Provider agreement." A formal written agreement between the Department and an ICF/IID ~~ICF/MR~~ that is certified to provide services to recipients.

(j) "Services." Intermediate care facility services for those with intellectual disabilities ~~the mentally retarded~~ as defined in 42 U.S.C. 1396d(d).

(k) "Services and supplies included in the per diem rate." In addition to those services and supplies specified in Chapter 7, Attachment A, Section 4(aaa), ~~which is hereby incorporated by reference, unique costs are included in the per diem rate.~~

(l) "Services and supplies not included in the per diem rate." Services and supplies which are not included in the per diem rate include, but are not limited to:

- (i) Barber and beauty shop services;
- (ii) Clothing;
- (iii) Cigarettes, cigars, pipes and tobacco;
- (iv) Cosmetics;
- (v) Hospital services;
- (vi) Prosthetic devices;
- (vii) Ventilators; and

(viii) Customized wheelchairs that are fitted or fabricated to a specific individual and cannot be used by any other person, and electric wheelchairs, including batteries.

(m) "Temporary absence." When a recipient is out of a facility for hospitalization or therapeutic home visits. Temporary absences for hospitalization:

- (i) Shall not exceed fifteen (15) days per year, and

(ii) The recipient must intend to and have a reasonable expectation of returning to the facility.

(iii) Temporary absences for therapeutic home visits shall:

(A) Be part of the recipient's plan of care, and

(B) Be limited to fifteen (15) days in duration no more than once per month, not to exceed thirty (30) days per calendar year. A recipient receiving infirmary services is not absent from the facility.

~~(a) shall not exceed fifteen days per year, and (b) the recipient must intend to and have a reasonable expectation of returning to the facility. Temporary absences for therapeutic home visits must: (a) be part of the recipient's plan of care, and (b) shall be limited to fifteen days in duration no more than once per month, not to exceed thirty days per calendar year. A recipient receiving infirmary services is not absent from the facility.~~

(n) "Unique costs." The following services and supplies are unique costs and shall be included in the per diem rate if they are provided by the facility or by a third party under contract to the facility to or for the benefit of a recipient:

(i) Audiology services;

(ii) Case management services;

(iii) Dental services;

(iv) Dietary services and adaptive equipment;

(v) Dry cleaning expenses incurred on behalf of residents;

(vi) Habilitation services;

(vii) Hearing aids;

(viii) Infirmary services;

(ix) Laboratory services;

(x) Music therapy services;

(xi) Occupational therapy services;

(xii) Optical services;

(xiii) Orthotic services;

- (xiv) Physical therapy services;
- (xv) Physician services;
- (xvi) Podiatry services;
- (xvii) Prescription drugs;
- (xviii) Pre-vocational training services and supplies;
- (xix) Psychological services;
- (xx) Recreational therapy services;
- (xxi) Social services;
- (xxii) Speech therapy services; and
- (xiii) Transportation services.

(o) “Wyoming Life Resource Center.” ~~state training school.~~” The Wyoming state training school as established pursuant to W.S. §§ 25-5-101 through 25-5-135 et seq.

Section 5. General methodology.

(a) ~~Incorporation of Chapter VII. ICF/MRs~~ ICFs/IID shall be reimbursed using a per diem rate calculated in accordance with the ~~procedures and methodology established below.~~ In addition, ICFs/IID shall be subject to the rules in Chapter 7, Wyoming Nursing Home Reimbursement System, except as otherwise specified by this rule. ICFs/IID shall not be subject to the Chapter 7 rate and price setting Sections 7, 13(d), 14, 15, 16, 17(c), 18, and 19.

~~by Chapter VII, the Wyoming Nursing Home Reimbursement System, except as otherwise specified by this rule. Chapter VII is hereby incorporated by reference, excluding subsections 7(a) an (b), 10(c), 4(a) and (c), Section 15, and with the modi-~~

~~fications specified in this Chapter.~~

(b) Calculation of per diem rates for ICFs/IID ICF/MRs. The per diem rate for ICFs/IID ICF/MRs shall be calculated eale-lated independently from the calculation of rates for facilities as defined in Chapter 7~~VII~~, Section 4~~(n)~~. The provider's per diem rate shall be determined utilizing either a desk reviewed or audited cost report. Costs shall not be subject to any form of cap or maximum rate for the Wyoming Life Resource Center. A provider's per diem rate shall be determined by adding its health-care costs, operating costs, capital costs and unique costs, subject to the applicable limitations and adjusted for inflation pursuant to Section 18 of Chapter VII.

(i) Effective date. The rates calculated each July 1 shall remain in effect until the following July 1. Application of capital cost limitations. The provider's reimbursable capital cost is the lesser of the provider's inflated allowable capital cost or the capital cost component ceiling as deter-mined pursuant to subsection 14(b) of Chapter VII. This will be used as the capital cost component of the per diem rate.

(ii) Per diem rates are established prospectively and shall remain in effect from the rate effective date until re-determined pursuant to this rule. Cost component limitations for health-care costs and operational costs shall be calculated for ICF/MRs using cost reports from ICF/MRs exclusively.

(iii) Applicable cost report data. The data used in establishing the rate calculation is from the cost reports which ended two (2) calendar years ago (for example, cost reports ending during the period from January 1, 2013 to December 31, 2013, shall be used to set rates effective July 1, 2015). ICF/MRs shall not qualify for incentive payments as defined in Chapter VII.

(iv) Cost reports submitted by ICFs/IID ICF/MRs shall not be used in any way to calculate per diem rates for facilities as defined in Chapter 7~~VII~~.

(v) Rates shall be established by inflating adjusted / reviewed costs from the midpoint of the provider's cost reporting year to the midpoint of the rate year. Inflated costs shall be divided by total patient days to arrive at the allowed per diem rate.

(c) Reimbursement of new facilities. A new facility or a newly certified facility shall receive interim payments for services provided to recipients as determined pursuant to this subsection.

(i) Submission of projected costs. A new facility shall, before receiving Medicaid funds for services provided to recipients, submit a cost report to the Department containing projected costs for the facility's first six months of operation.

(ii) Time of submission of cost report. A new facility shall submit a cost report containing the information specified in paragraph (i) within sixty (60) days after the facility notifies the Department in writing that it wishes to participate in the Medicaid program as a provider and has been certified.

(iii) Review of projected costs. The Department shall desk audit the cost report submitted pursuant to paragraph (i) to determine the reasonableness of the facility's allowable projected

costs. An interim payment rate shall be established using the facility's reasonable, allowable costs. The interim payment rate shall not exceed the lower of the rate determined pursuant to this subsection and seventy-five percent (75%) of the Wyoming Life Resource Center rate in effect. ~~Interim rates shall be established using the limitations and restrictions set forth in this Chapter, except the health care and operating cost limitations shall not apply.~~

~~(iv) Maximum interim payment rate. The interim payment rate shall not exceed the lower of the rate determined pursuant to this subsection and one hundred and twelve percent of the median per diem rate for ICF/MRs. The median shall be determined by arraying the per diem rates in effect as of the effective date of the new facility's provider agreement for all facilities receiving payments pursuant to this Chapter, other than interim payments, from low to high and selecting the median per diem rate.~~

~~(iv)(v) Period of interim payments. Interim payments shall be effective upon the effective date of the facility's provider agreement, and shall remain in effect until a qualifying cost report has been submitted and subjected to audit and used to calculate a rate. the end of the facility's first fiscal year ending six or more months after the facility's certification date, at which time the Department shall establish a per diem rate pursuant to subsection (b). No payments shall be made to a new facility until an interim payment rate has been determined pursuant to this subsection.~~

~~(v)(vi) Audits of interim payments. Upon receipt of the qualifying cost report, the~~ The Department may audit a facility to determine the accuracy and reasonableness of cost reports submitted by the facility. If the audit discloses that the interim payments included nonallowable costs, costs for services and supplies not included in the per diem rate or that budgeted costs exceeded actual costs, the ~~Department~~ Department shall adjust the per diem rate retroactively to the beginning of the interim rate period and recover any excess payments.

(vi) Audits shall be conducted in accordance with Section 5(b). Providers other than Wyoming Life Resource Center shall have rates limited to the lower of the provider's audited cost in accordance with Section 5(b) or seventy-five percent (75%) of the Wyoming Life Resource Center rate.

Section 6. ~~Incorporation of Chapter XVII. ICF/MRs~~ ICFs/IID are subject to the requirements of Chapter ~~17~~XVII, Nursing Facility Resident Trust Accounts., ~~which is hereby incorporated by reference.~~

Section 7. Superseding Effect. This chapter supersedes all prior rules or policy statements issued by the Department, including manuals and/or bulletins, which are inconsistent with this Chapter.

Section ~~7~~ 8. Severability. If any portion of these rules is found to be invalid or unenforceable, the remainder shall continue in effect.

Section 9. Incorporation by Reference

(a) For any code, standard, rule or regulation incorporated by reference in these rules:

(i) The Department of Health has determined that incorporation of the full text in these

rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section; and

(iii) The incorporated code, standard rule, or regulation is maintained at the Department of Health and is available for public inspection and copying at cost at the same location.

(b) Each rule incorporated by reference is further identified as follows:

(i) Referenced in Sections 4 and 5 is Chapter 7 - Rules and Regulations for Medicaid – Wyoming Nursing Home Reimbursement System, adopted by the Department of Health and effective on May 29, 2012, found at <http://soswy.state.wy.us/Rules/RULES/8611.pdf>

(ii) Referenced in Section 6 is Chapter 17, Rules and Regulations for Medicaid - Nursing Facility Resident Trust Accounts, adopted by the Office of Medicaid and effective on May 29, 2012, found at <http://soswy.state.wy.us/Rules/RULES/8612.pdf>.