

**Comments for Chapter 511 Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)**

**June 6, 2016**

<b><u>Comment Number</u></b>	<b><u>Date Comment Received</u></b>	<b><u>Comment</u></b>	<b><u>Status Result</u> C = Change NC = No Change D = Duplicate</b>	<b><u>Action for Change Status</u></b>	<b><u>Reasoning for No Change Status and FAQs</u></b>
<b>1</b>	4/21/2015	511.1.1.2 Personnel Records  The Council recommends specific references regarding training to 1) recognize and report abuse and neglect, and 2) safe and appropriate use of physical restraints be included.	<b><u>C</u></b>	Changed the 4 <sup>th</sup> bullet to read:  Records of in-service training and continuing education, such as but not limited to training in recognizing and reporting abuse and neglect.	Did not change #2 of this section because more often than not, physical restraints are not appropriate.
<b>2</b>	4/21/2015	511.1.2 Criminal Background Checks	<b><u>C</u></b>	Changed the Entire Section to meet Legislation and new Criminal Background Check process through West Virginia Cares.	
<b>3</b>	4/21/2015	511.2.2 Eligibility Determination of Members  Individuals who seek ICF/IID services may have their eligibility determined prior to or after their admission to an ICF/IID facility. Individuals who seek Home and Community Based Services (HCBS) cannot receive services prior to being determined both financially and medically eligible. Once they are deemed eligible they	<b><u>C</u></b>	Added opening sentence to section to clarify:  Individuals must meet both medical and financial eligibility to receive ICF/IID services.	

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		are placed on a list to wait for services, rather than having them provided.  Individuals must meet medical and financial eligibility for ICF/IID services. Financial eligibility is not mentioned here.			
<b>4</b>	4/21/2015	511.2.3 Medical Eligibility Criteria  Individuals who seek ICF/IID services have a different medical eligibility process than those seeking HCBS. Certification by a physician of the need for an ICF/IID level of care (DD-2A) no longer qualifies an individual for I/DD Waiver services but is still used for providing institutionalized services for people.	<b><u>NC</u></b>		This Statement is correct; however the DD2A is only one of three documents that are used to help certify eligibility. As stated in 511.2.3, the psychologist and social worker must also state the individual needs an ICF/IID level of care.
<b>5</b>	4/21/2015	511.2.4 Initial Admission Requirements  The Council recommends the addition of language to include 1) provider assurances that the person/family/guardian is provided information necessary to make an informed choice, 2) individuals have received supports required	<b><u>C</u></b>	Added the following sentences to the end of the second paragraph:  The admitting ICF/IID facility must make assurances that the resident/family/guardian is provided information necessary to make an	

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		(transition planning) to change their place of residence in accordance with WV DHHR policies, and 3) some documentation that the person/family/guardian has received an explanation of their rights, including the right to file grievances.		informed choice on admission. Residents must receive supports required, such as but not limited to, transition planning, before the change is made in the potential resident's current place of residence. The ICF/IID facility must have documentation showing that the rights have been explained to the resident/family or guardian.	
<b>6</b>	4/21/2015	5.11.2.5 Annual Redetermination of Eligibility  The redetermination of eligibility process for institutionalized services is simpler than the redetermination process for I/DD Waiver services, only requiring an annual DD-2A be completed by a physician. Other information may be requested but is not mandated as in the I/DD Waiver redetermination, where a functional assessment must be completed annually, and a DD-2A completed	<b><u>NC</u></b>		The DD3 is on file for all individuals and the ICAP is reviewed annually.

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		by a physician is no longer acceptable.			
<b>7</b>	4/21/2015	511.2.5 Annual Redetermination of Eligibility  The Council does not believe that institutional placements should be considered the permanent residence for any individual. There should be a more rigorous process discussed here for planning to move to a less restrictive and more integrated setting (discharge planning) for each individual on an annual basis.	<b><u>NC</u></b>		Least restrictive environment is always the goal and discharge planning is a required part of the annual IPP meetings. OHFLAC reviews the discharge plans and IPP's.
<b>8</b>	4/21/2015	511.2.5 Annual Redetermination of Eligibility  Also, individuals who use I/DD Waiver services must be offered the option of institutional care annually. No mention is made of offering individuals in ICF settings the option of receiving home and community based services.	<b><u>NC</u></b>		This section discusses redetermination of eligibility and anchor dates for ICF service reimbursement.  The offer of other services outside of ICF would be discussed within the IPP and are not limited to I/DD waiver services or other home and community based services.
<b>9</b>	4/21/2015	511.2.6 Annual Submission of the ICAP	<b><u>NC</u></b>		The ICAP is related to provider reimbursement rates, but more

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		Individuals must have an ICAP administered annually, but this appears to be related to provider reimbursement rates rather than eligibility for the program or for program planning purposes.			importantly, it drives the need for behavior plans, interactive guidelines, and behavioral protocols and/or interactive guidelines as requested by BMS ICF/IID contracted agent.
<b>10</b>	4/21/2015	511.2.7 Transfer of Members  What assurances are in place to make certain individuals are not transferred from one facility to another solely for the convenience of the provider agency?	<b><u>C</u></b>	Added sentence to end of the second paragraph:  Transfers from one ICF/IID facility to another solely for the convenience of the provider agency are unacceptable.	
<b>11</b>	4/21/2015	511.3 Covered Services  Does the per diem rate also cover crisis and/or emergency services, including additional personnel training such as positive behavior support (PBS)?	<b><u>NC</u></b>		Yes, the per diem covers these services
<b>12</b>	4/21/2015	511.3 Covered Services  What mechanisms, other than occasional reviews or complaint investigations by OHFLAC, are in place to assure needed services are provided to individuals who live in an ICF?	<b><u>NC</u></b>		OHFLAC reviews facilities annually and as needed in accordance with federal and state regulations. On-site visits are completed for each individual living in an ICF/IID and at other times when an ICAP score is in question.

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		<p>Who ensures, on an on-going basis, that individuals receive needed medical treatment, dental care, accessories, supplies, equipment, therapies, etc.?</p> <p>Individuals with developmental disabilities who reside in ICFs are required to be provided with medical services including dental and vision care. Other adults with developmental disabilities in WV are not eligible to receive dental (other than emergency tooth extraction) or vision care.</p>			OHFLAC and the individual's IDT, which includes the individual's representative, would ensure on an on-going basis that individuals receive needed medical treatment, dental care, accessories, supplies, equipment, and or therapies.
<b>13</b>	4/21/2015	<p>511.3.1 Services Provided by Outside Sources</p> <p>What living quarters are being referenced here that "are not provided in a facility owned by the ICF/IID?"</p>	<b><u>NC</u></b>		This section refers to any other services the individual may need in the ICF/IID, which the ICF/IID facility is not licensed to provide, such as, but not limited too Physical Therapy, Wound Care, etc. The living quarters would be within the ICF/IID.
<b>14</b>	4/21/2015	<p>511.4.1 Medical Leave of Absence</p> <p>Reserving a resident's bed for 14 consecutive days while the person is hospitalized is commendable</p>	<b><u>C</u></b>	Agreed the language proposed was confusing and has been removed.	

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		<p>but raises two questions. What happens to the individual's placement if they are hospitalized for longer than 14 days? And, are there a maximum number of days allowed annually for medical leaves of absence?</p> <p>The two sentences included from the WV State Plan seem contradictory of one another. "If the bed is used during the client's absence for emergency or respite care, it will in no way jeopardize or delay the return of the hospitalized resident to the facility. However, such short-term use of the bed is not acceptable and the facility will count these days in addition to reservation days in reporting the total census." If "such short-term use of the bed is not acceptable," why is it mentioned as a possibility, and then an explanation given for how to count it in the census?</p>			
<b>15</b>	4/21/2015	<p>511.4.2 Non-Medical Leave of Absence</p> <p>We can see that the allowance of</p>	<b><u>NC</u></b>		This was not a question, but a statement agreeing with the policy.

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		21 days per year for individuals to be away from the facility for family visits (whether therapeutic or not) or other purposes are beneficial for the individuals who live in institutional settings.			
<b>16</b>	4/21/2015	511.5 Managed Care  It is a relief to see the ICF/IID program is still exempted from managed care coverage. The program, by design, already provides managed care. The Council believes the I/DD Waiver program should also remain exempt from managed care coverage for the same reason.	<b><u>NC</u></b>		This was not a question, but a statement agreeing with the policy.