Intermediate Care Facilities for Individuals with Intellectual and Developmental Disabilities (ICF/IID) Questions Related to COVID-19

Revised May 15, 2020

ICF/IID General Policies and Procedures

Question: Notifications went out to waiver providers related to level of care extensions, however, no notification was issued for Intermediate Care Facilities ID/RC assessment forms.

Answer: HHSC is aware of the need to extend IDRCs in ICFs/IID for some providers who are unable to obtain a physician signature needed to renew the IDRC. The decision to extend IDRCs for March, April, and May is still pending.

Question: Given the instructions in provider letter, PL 20-21, who should providers send a limited duration waiver request to?

Answer: Please submit waiver requests to karen.stone2@hhsc.state.tx.us, and include the following information:

- Provider name
- Provider ID
- Provider address
- Provider phone number
- Resident name(s)

Question: Are there going to be any exceptions made to the billing when ICF residents go over their extended leave allowed for the year? Some of our clients have compromised immune systems and it is safer for them to be at home with families for now.
Answer: Provider letter, PL 20-21 waived the amount of time an individual can remain on extended therapeutic leave to address concerns over individuals wishing to remain with family to lessen the likelihood of COVID-19 infection. Increasing the number of days an ICF/IID program provider is paid while a resident is absent from the ICF/IID requires an amendment to the Medicaid state plan.

HHSC has an obligation to ensure Texans in the Medicaid program continue to receive access to necessary medical and habilitative services during the COVID-19 emergency. HHSC has received information about costs being incurred by providers directly and indirectly to support clients due to COVID-19. Additionally, we have heard from several providers who are experiencing unusual utilization patterns, resulting in lost revenues.

Existing reimbursement rates for providers do not contemplate the additional costs being incurred to provide safe and effective services amid worldwide pandemics. HHSC continues to examine this information including holding discussions with the Centers for Medicare & Medicaid Services (CMS) to determine how state relief solutions can complement relief opportunities being provided by our federal partners directly to healthcare providers. HHSC is focusing requests for additional funding and safeguarding adequate reimbursement for the services being delivered. To implement any rate increases, CMS approval is required to certify the availability of adequate funding in collaboration with state leadership.

Question: Can ICF/IID providers be paid for services delivered in an alternate location (such as another ICF/IID or other location) due to temporary closure of an ICF/IID?

Answer: If an ICF/IID resident moves to another ICF/IID, the resident can be transferred to the receiving ICF/IID. The receiving ICF/IID would bill for providing services in that ICF/IID. If an ICF/IID continues to operate but takes some residents to another location, the ICF/IID may continue to bill for services at the other location if the requirements for special leave described in Title 40 TAC Chapter 9, Subchapter E, §9.226(d) are met.
**Question:** Will HHSC provide clarification or consider revising the following rule: A facility may allow entry of persons providing critical assistance, unless the facility believes the person may impede the health and safety of residents or the person meets one or more of the following screening criteria:

- Fever or signs or symptoms of a respiratory infection, such as cough, shortness of breath, or sore throat;
- Contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, someone who is under investigation for COVID-19, or someone who is ill with a respiratory illness; or
- International travel within the last 14 days to countries with ongoing community transmission

I ask because, ICF/IID providers are concerned the rule will create immediate staffing problems because staff are likely to meet one of the criteria above.

**Answer:** Governor Abbott’s Executive Orders, issued on April 27, 2020, [GA-18](#) states, “In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC).”

Additionally, HHSC emergency rules in [Title 26 TAC, Chapter 551, Subchapter M, 551.401(c)-(f)](#) state,”(c). A facility must take the temperature of every person upon arrival and must not allow a person with a fever to enter or remain in the facility, except as a resident. (d) A facility must prohibit all visitors, except as provided in subsection (e) of this section. (e) A facility may allow entry of persons providing critical assistance, unless the facility believes the person may impede the health and safety of residents or the person meets one or more of the following screening criteria: (1) Fever or signs or symptoms of a respiratory infection, such as cough, shortness of breath, or sore throat;
Additionally, HHSC emergency rules in Title 26 TAC, Chapter 551.401(c)-(f) state, “(c) A facility must take the temperature of every person upon arrival and must not allow a person with a fever to enter or remain in the facility, except as a resident. (d) A facility must prohibit all visitors, except as provided in subsection (e) of this section. (e) A facility may allow entry of persons providing critical assistance, unless the facility believes the person may impede the health and safety of residents or the person meets one or more of the following screening criteria: (1) Fever or signs or symptoms of a respiratory infection, such as cough, shortness of breath, or sore throat; (2) Contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, someone who is under investigation for COVID-19, or someone who is ill with a respiratory illness; or (3) International travel within the last 14 days to countries with ongoing community transmission. For updated information on affected countries visit: https://www.cdc.gov/coronavirus/2019-ncov/travelers/map-and-travel-notices.html (f) A facility must not prohibit government personnel performing their official duty from entering the facility, unless the individual meets the above screening criteria.”

**General Questions for ICF/IID and Home and Community-based Service (HCS)**

**Question:** Is HHSC requiring HCS group homes and ICF/IID providers to quarantine new admissions in their bedroom for 14 days?

**Answer:** HHSC is recommending an individual newly admitted to an HCS 3-person or 4-person residence or an ICF/IID be isolated for 14 days to prevent transmission of COVID-19, but not requiring this. Providers should refer to the COVID-19 response documents for HCS and ICF/IID, found here, at; https://hhs.texas.gov/services/health/coronavirus-covid-19/coronavirus-covid-19-provider-information
**Question:** The 1135 waiver request CMS just approved included approval for waiving several background checks temporarily when enrolling service providers. Which service providers does this apply to?

**Answer:** The [blanket waivers for health care providers](https://www.cms.gov/Medicare/Provider-Participation/Enrolling-and-Renewing-Special-Participation-Programs/Enrolling-and-Renewing-Special-Participation-Programs-Brief) issued by CMS include a waiver of screening requirements for Medicaid providers, including ICF/IID and HCS and TxHmL program providers, to enroll in Medicaid. That waiver does not apply to employees of ICF/IID, HCS, and TxHmL programs that provide direct care services. ICF/IID, HCS, and TxHmL program providers must continue to conduct background checks on their employees in accordance with Title [26 TAC §551.321](https://www.texasocpc.org/Title26) for ICF/IID and Title 40, Part 1, Subchapter D and N, HCS and TxHmL Rules, §9.177 (n) and (o), §9.579 (r) and (s), and [HCS](https://www.hhsc.texas.gov/services/hcs/) and [TxHmL](https://www.hhsc.texas.gov/services/txhm/) Billing Guidelines Section 3400 regarding service provider qualifications.

**Question:** Will HHSC release a report on the number of reported confirmed COVID-19 cases by population/program?

**Answer:** DSHS provides state and county level data at: [https://dshs.texas.gov/coronavirus/additionaldata/](https://dshs.texas.gov/coronavirus/additionaldata/)

**Question:** Does HHSC have plans to add IDD providers to the priority list of healthcare providers and other essential service providers to not only receive necessary personal protective equipment (PPE) to protect staff and others from spread of COVID-19, but also to receive COVID-19 testing?

**Answer:** The Guidance on the Essential Critical Infrastructure Workforce includes workers at long-term care facilities, residential and community-based providers (e.g. Programs of All-Inclusive Care for the Elderly (PACE), Intermediate Care Facilities for Individuals with Intellectual Disabilities, Psychiatric Residential Treatment Facilities, Religious Nonmedical Health Care Institutions, etc.). The guidance is referenced in the Executive Order, [GA-16](https://www.galovetexas.com/executive-orders/GA-16) released on 4/17/2020.
**Question:** What is being done to ensure individuals maintain financial eligibility for Medicaid? HHSC issued a March 28th bulletin announcing it was waiving Medicaid and SNAP renewal eligibility requirements. While helpful, what about ME lapses that occurred prior to COVID and/or the release of this notice?

**Answer:** HHSC is extending Medicaid financial eligibility from March 18, 2020 through May 31, 2020. If an individual lost eligibility beginning on March 18, 2020, HHSC is working to restore the individual’s benefits. If an individual lost eligibility prior to March 18, 2020, they will need to reapply for Medicaid.

**Question:** Clarify if HHSC expects or is requiring that staff in the HCS and ICF/IID group homes wear masks always regardless of whether any individuals in the home have confirmed COVID. If so, what concrete steps are HHSC taking to elevate the IDD community providers to priority status when it comes to obtaining PPE? [It has been reported that HHSC has started citing ICFs/IID for failure to wear masks, yet we have not seen any guidance from HHSC specifically requiring this.]. The ‘HCS Plan’ which HHSC has yet to issue to providers appears to now require that masks be worn, yet also states if a provider cannot obtain the equipment they will not be cited.]

**Answer:** HHSC has published a document for HCS and ICF/IID providers describing the use of masks in group homes. The document recommends staff follow CDC and DSHS guidance regarding the use of masks. Outlining the use of PPE and other steps to be taken to limit the spread of COVID-19 and how to address individuals who are positive or exposed to someone who is positive.


Life Safety Code and Fire Marshal Inspections (Note: the following questions also apply to HCS)

**Question:** Will Life Safety Code inspections (new and renewing) be temporarily waived in HCS and ICF?

**Answer:** HHSC is continuing to conduct Life Safety Code inspections of ICFs/IID and HCS homes. ICF/IID inspections associated with initial licensure, certification, facility relocation, and an increase in facility capacity are occurring. However, HHSC is not conducting any face to face surveys, including Life Safety Code inspections, for license and certification renewal in ICFs/IID and HCS group homes or for other purposes considered nonessential. Therefore, an ICF/IID and HCS group home cannot be cited for an expired Life Safety Code inspection.

**Question:** Will ICF/IID and HCS providers be cited for expired fire marshal inspections?

**Answer:** When HHSC Regulatory staff come across an expired fire marshal inspection on survey, our standard approach is to have the provider establish a safety plan until a fire marshal inspection can be obtained. Survey staff would take a few things into consideration for each residence such as:

- Documentation showing efforts to request an inspection
- The date and outcome of the most recent fire panel inspection
- The date and outcome of the inspection for sprinkler system, as applicable for the location of the residence
- Unobstructed pathways out of the residence
- The emergency response plans that are in place and staff knowledge of them
- The specific needs of the individuals in the residence – equipment, behavior support plans, medical conditions, and staff knowledge of them
- Review of documentation for fire drills conducted in the residence
- Status of the fire extinguishers in the residence
To ensure the health and safety of the individuals in the residence, survey staff would also encourage providers to develop, implement, and document a fire watch schedule. This watch should include, at a minimum, observing each room and assessing the interior and exterior of the residence to ensure there are no fire hazards or signs of a fire present.