



Long-Term Care Regulatory Provider Letter

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| Number: PL 19-21 |
| Title: ICF Bed Allocation Process |
| Provider Types: Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID) |
| Date Issued: September 9, 2019 |

1.0 Subject and Purpose

House Bill 3117, 86th Legislature, Regular Session, 2019, requires HHSC to develop a process to redistribute existing ICF/IID beds under the authority of the State Plan for Individuals with Intellectual and Developmental Disabilities (“State Plan”). This letter establishes the process for the first reallocation as directed by this legislation.

2.0 Policy Details & Provider Responsibilities

Pursuant to current rules¹, as ICF providers close or allow beds to expire in suspension, the beds revert to the control of HHSC. As such, the beds become available for reallocation.

2.1 Application Process

HHSC will accept applications beginning the date of this letter. No applicant can request more than six reallocated beds per ICF license.

A current ICF provider interested in obtaining these reallocated beds must complete form HHSC 3642, ICF/IID Medicaid Bed Reallocation Application. The applicant must mail the application and all supporting documentation to:

Licensing and Credentialing
Mail Code E-342

¹ See 40 Texas Administrative Code, §9.218(o).

P.O. Box 149030
Austin, TX 78714-9030

For the initial reallocation, the number of available beds will be calculated based on the numbers of surrendered or expired beds made available during state fiscal years 2018 and 2019.

2.2 Approval Process

HHSC will assess and process applications in the order they are received. If the applicant meets the criteria for reallocation and ICF beds are available, HHSC approves the application and grants the number of beds requested, up to a maximum of six beds. The applicant must be immediately ready to use beds at the time of application.

HHSC will approve applications based on an acceptable regulatory compliance history and demonstrated need for the reallocated beds as described below.

2.2.1 Compliance History

HHSC considers the compliance history for any facility operated by the owner. An acceptable compliance history means that, within the preceding 24 months, the applicant and controlling person(s):

- Have not received any of the following sanctions:
 - Termination of Medicaid or Medicare certification
 - Termination of Medicaid contract
 - Denial, suspension or revocation of a provider license
 - Cumulative Medicaid or Medicare civil monetary penalties totaling more than \$5,000 in a single facility
 - Imposition of civil penalties pursuant to Texas Health and Safety Code §252.064
 - Denial of payment for new admissions
- Do not have a pattern of substantial or repeated licensing or Medicaid sanctions, including administrative penalties
- Do not have a condition listed in 26 TAC §551.17, Criteria for Denying a License or Renewal of a License.

2.2.2 Demonstrated Need

The applicant must present documentation that demonstrates need for the requested reallocated beds. The applicant must:

- Provide data demonstrating occupancy rates of 80 percent or greater for nine of the 12 months preceding the application; and
- Further demonstrate need by providing documentation of a wait list, such as letters from individuals or family members attesting they want to receive services from the applicant.

2.3 Determination

If the reallocation application is approved, the provider must submit a licensure application in the Texas Unified Licensure Information Portal (TULIP) within 30 days of the date of the approval letter. If the applicant fails to complete and submit the licensure application, the reallocation application is cancelled, and HHSC will reallocate the beds to another approved provider or hold the beds until another provider is approved.

If the licensure application is denied, HHSC will reallocate the beds to another approved provider or hold the beds until another provider is approved.

Once all available beds are reallocated, HHSC will place any approved applicants who did not receive reallocated beds on a waiting list. As additional beds become available for reallocation, HHSC will contact approved applicants on the wait list.

3.0 Background/History

HB 3117, 86th Legislature, Regular Session, 2019, requires HHSC to develop a process under the authority of the State Plan to reallocate certain ICF beds.

4.0 Resources

[ICF/IID Medicaid Bed Reallocation Application](#)

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at PolicyRulesTraining@hsc.state.tx.us or call (512) 438-3161.