



Date: September 30, 2020

To: Intermediate Care Facility for Individuals with an
Intellectual Disability or Related Condition (ICF/IID)
Program Providers

Subject: Information Letter No. 20-43
ICF/IID Services During COVID-19

The purpose of this letter is to notify ICF/IID program providers of recent developments regarding the reinstatement of rules regarding resident leave and potential reimbursement for days that a resident was absent from an ICF/IID during the COVID-19 public health emergency (PHE).

HHSC is aware that some residents left ICF/IIDs to live with family or in another living arrangement during the PHE. In Provider Letter [\(PL\) 20-21](#)ⁱ, HHSC informed program providers that Texas Administrative Code, Title 40 (40 TAC) §9.226(a)-(f), part of the rule governing leave from an ICF/IID, was suspended. The purpose of the rule suspension was to allow a resident to be absent from an ICF/IID during the PHE for longer than usual without being discharged.

HHSC anticipates that 40 TAC §9.226 will be reinstated no later than November 1, 2020. This means a resident who is away from an ICF/IID beyond leave permitted by §9.226 must be discharged from the ICF/IID, either with or without a bed hold agreement to hold the resident's place at the ICF/IID in accordance with 40 TAC §9.227(j). The attached letter explains the options available to a person who is away from an ICF/IID and not on leave.

By October 5, 2020, you must provide an electronic or hard copy of the attached letter to each resident who is absent from an ICF/IID that you operate, is not on leave, and has not been discharged from the ICF/IID. You may enter into a bed hold agreement with a discharged resident.

The suspension of 40 TAC §9.226 did not authorize HHSC to pay program providers for a resident's days of absence beyond those described in the Medicaid state plan. HHSC intends to submit a state plan amendment to the Centers for Medicare and Medicaid Services (CMS) asking for approval to pay an ICF/IID program provider for up to 90 days that a resident was absent from an ICF/IID from March 20 through October 23, 2020 as a result of the PHE. If the state plan amendment is approved by CMS, HHSC will provide information about billing and the conditions that a program provider must meet to receive payment for additional days of leave.

Questions regarding this information letter can be directed to:
ICFIID.Questions@hhsc.state.tx.us

Sincerely,

[signature on file]

Emily Zalkovsky
Deputy State Medicaid Director
Medicaid and CHIP Services

Attachment: Letter to Resident or Legally Authorized Representative

ⁱⁱ Provider Letter 20-21, Suspension of Certain LTCR Requirements during COVID-19 Outbreak, page 3.



Date: September 30, 2020

Program: Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition (ICF/IID)

Subject: ICF/IID Services During COVID-19

Dear Resident or Legally Authorized Representative,

You are receiving this letter because you are enrolled in the ICF/IID program and you have chosen to live away from your facility during the COVID-19 public health emergency.

As a resident of an ICF/IID, you may take up to 10 days of extended therapeutic leave in a calendar year and, once during a calendar year, combine extended therapeutic leave with therapeutic leave of up to 3 days. During the public health emergency, your ICF/IID allowed you to remain away from your facility without discharging you, even though you have used all of your extended therapeutic leave. Effective November 1, 2020 this will no longer be allowed.

At that time, you or your legally authorized representative have the following options:

1. Return to the facility.
2. Continue to be absent from the facility, be discharged, but enter into an agreement with the ICF/IID to hold your place at the facility. Your ICF/IID may require payment from you or your representative to hold your place.

3. Continue to be absent from the facility and be discharged. When you are ready to return to an ICF/IID, you may be readmitted to the same facility if space is available, or you may seek admission to another ICF/IID.

If you are discharged, you or your legally authorized representative can explore services other than ICF/IID services by contacting a local intellectual and developmental disability authority (LIDDA) for assistance. Information on LIDDAs serving specific counties is available at this [link](#) or by calling 855-937-2372 to talk to a trained professional.

Questions regarding the ICF/IID program can be directed to ICFIID.Questions@hhsc.state.tx.us