

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 0 — 0 1 0

2. STATE:

Ohio

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID) TITLE XIX

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

July 1, 2000

5. TYPE OF PLAN MATERIAL (Check One):

NEW STATE PLAN

AMENDMENT TO BE CONSIDERED AS NEW PLAN

AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

Section 1902 (a)(13)(A) of the Social Security Act

7. FEDERAL BUDGET IMPACT:

a. FFY 2000 \$ 36,668.75  
b. FFY 2001 \$ 146,675.00

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19D: Rules 5101:3-3-023  
5101:3-3-04  
5101:3-3-23  
5101:3-3-871 (new)

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):

Attachment 4.19D: Rules 5101:3-3-023  
5101:3-3-04  
5101:3-3-23

10. SUBJECT OF AMENDMENT:

This amendment contains Rules 5101:3-3-023, 5101:3-3-04, 5101:3-3-23, and 5101:3-3-871. Rules 5101:3-3-023, 5101:3-3-04, and 5101:3-3-23 have been revised for clarity and updated language. Rule 5101:3-3-871 establishes ICF-MR "outlier" provisions.

1. GOVERNOR'S REVIEW (Check One):

GOVERNOR'S OFFICE REPORTED NO COMMENT

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED:

The Governor's office has delegated review to the Director of ODJFS

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Jacqueline Romer-Sensky*

13. TYPED NAME:

Jacqueline Romer-Sensky

14. TITLE:

Director

15. DATE SUBMITTED:

August 31, 2000

16. RETURN TO:

Becky Jackson  
Bureau of Health Plan Policy  
Ohio Department of Jobs and Family Services  
30 East Broad Street, 27th floor  
Columbus, Ohio 43266-0423

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

9/6/00

18. DATE APPROVED:

11/1/00

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

July 1, 2000

20. SIGNATURE OF REGIONAL OFFICIAL:

*Cheryl Harris*

21. TYPED NAME:

Cheryl A. Harris

22. TITLE:

Associate Regional Administrator  
Division of Medicaid and Insurance Oversight

23. REMARKS:

RECEIVED

SEP 06 2000

DMD - IJ/MSH

5101:3-3-023 Eligible providers and provider types.

- (A) Services may only be provided by the nursing facility (NF), intermediate care facility for the mentally retarded (ICF-MR), or another institution which is certified by the Ohio department of health (ODH) and which has ~~executed a currently effective A provider agreement with the Ohio department of human services (ODHS)~~ OHIO DEPARTMENT OF JOBS AND FAMILY SERVICES (ODJFS).
- (B) The types of certified facilities which may participate in the medicaid program are:
- (1) General nursing facilities (NFs);
  - (2) Intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD);
  - (3) Medicare skilled nursing facilities (SNFs);
  - (4) Medicare skilled nursing and nursing facilities (SNFs/NFs).
- (C) All beds, ~~except those beds added between July 1, 1987 and July 1, 1993, in a participating facility~~ IN A PARTICIPATING FACILITY, EXCEPT THOSE BEDS ADDED BETWEEN JULY 1, 1987 AND JULY 1, 1993, must be surveyed to determine compliance with the applicable certification standards and, if certifiable, ~~as provided in rule 5101:3-3-013 ("Moratorium: Nursing Facility (NF) Beds") of the Administrative Code, included in the provider agreement under one of the certification categories listed in paragraph (B) of this rule. Certification of noncompliance by ODH or exclusion from a provider agreement under rule 5101:3-3-013 of the Administrative Code are IS the only bases BASIS for a nonparticipating area (distinct part) of a facility.~~
- (1) Participating facilities may request certification as NFs. All beds which meet NF standards shall be certified as meeting NF standards. ONCE BEDS ARE ADDED TO THE NF PROVIDER AGREEMENT, THOSE CERTIFIED BEDS MAY NOT BE REMOVED UNLESS THE FACILITY WITHDRAWS COMPLETELY FROM THE MEDICAL ASSISTANCE PROGRAM. NF BEDS ADDED BETWEEN JULY 1, 1987 AND JULY 1, 1993, MAY BE SURVEYED FOR COMPLIANCE AT THE DISCRETION OF THE PROVIDER.
  - (2) Participating facilities may request certification as ICFs-MR/DD. All beds which meet ICF-MR/DD standards shall be certified as meeting ICF-MR/DD standards.

TN #00-010 APPROVAL DATE \_\_\_\_\_  
SUPERSEDES  
TN #94-07 EFFECTIVE DATE 7/1/00

5101:3-3-023

Page 2 of 2

- (3) Participating facilities may request certification as a SNF or SNF-NF. IF SUCH BEDS DO NOT MEET THE STANDARDS FOR SNF CARE BUT DO MEET THE STANDARDS FOR NF CARE, THEY SHALL BE CERTIFIED AS MEETING THE STANDARDS FOR NF CARE.
- (e) ~~If such beds do not meet the standards for SNF care but do meet the standards for NF care, they shall be certified as meeting the standards for NF care.~~
- (4) Participating facilities shall have all medicare skilled nursing beds certified under medicaid and included in the medicaid provider agreement.
- (D) Distinct parts of a facility may be designated at different certification levels ~~in accordance with paragraphs (B) and (C) of this rule~~ as long as the distinct part designation is approved in writing by ODH.

Effective Date: 01 JULY 2000

Review Date: 14 APRIL 2000, 14 APRIL 2005

Certification: \_\_\_\_\_

21 JUNE 2000  
Date

Promulgated under: RC Chapter 119.  
Statutory authority: 5111.02  
Rules amplifies: RC Sections 5111.01, 5111.02, 5111.27, 5111.29  
Prior effective dates: 4/7/77, 7/1/80, 8/1/82, 1/30/85 (Emer.), 6/1/85, 9/30/87, (Emer.), 9/30/93 (Emer.), 1/1/1994

2000 07 2000

TN # 00-010 APPROVAL DATE \_\_\_\_\_

SUPERSEDES

TN # 94-07 EFFECTIVE DATE 7/1/00

5101:3-3-04 Availability of payment PAYMENT during the Ohio department of human services (ODHS) OHIO DEPARTMENT OF JOBS AND FAMILY SERVICES (ODJFS) administrative appeals process for denial or termination of a provider agreement.

- (A) Payment shall continue for medicaid-covered services provided to eligible residents during the appeal of, and the proposed termination or nonrenewal of, a nursing facility (NF) or an intermediate care facility for the mentally retarded (ICF-MR) provider agreement ~~where~~ WHEN ODHS ODJFS is required to provide an adjudicatory hearing pursuant to Chapter 119. of the Revised Code. Payment shall not be made under this provision for services rendered on or after the effective date of ~~ODHS ODJFS~~ ODHS ODJFS issuance of a final order of adjudication pursuant to Chapter 119. of the Revised Code, except as provided in paragraph (B) of this rule.
- (B) Payment may be provided up to thirty days following the effective date of termination or nonrenewal of a NF or ICF-MR provider agreement; or after an administrative hearing decision that upholds the ~~ODHS ODJFS~~ ODHS ODJFS termination or nonrenewal action. Payment will be available if both of the following conditions are met:
- (1) ~~Payment is for residents~~ RESIDENTS WERE admitted to the NF or ICF-MR before the effective date of termination or expiration; and
  - (2) The NF or ICF-MR cooperates with the state, local, and federal entities in the effort to transfer residents to other NFs; ICFs-MR; institutions; or community programs that can meet the ~~residents~~ RESIDENTS' needs.
- (C) When ~~ODHS ODJFS~~ ODHS ODJFS acts under instructions from the United States department of health and human services, payment ends on the termination date specified by that agency.

Effective Date: 01 JULY 2000

Review Date: 14 APRIL 2000, 14 APRIL 2005

Certification: \_\_\_\_\_

21 JUNE 2000  
Date

Promulgated under: RC Chapter 119.  
Statutory authority: RC Section 5111.02  
Rule amplifies: RC Sections 5111.01, 5111.02, 5111.06, 5111.21  
Prior effective dates: 3/18/88 (Emer.), 6/16/88, 1/1/95

TN # 00-010 APPROVAL DATE 01 2000  
SUPERSEDES  
TN # 97-19 EFFECTIVE DATE 7/1/00

5101:3-3-23 Private rooms for medicaid residents in nursing facilities (NFs) and intermediate-care facilities for the mentally retarded (ICFs-MR).

Medicaid will not pay more for a private room than the facility current per diem rate.

- (A) If a private room is required due to medical necessity, a NF or an ICF-MR must provide that room. Medicaid payment is considered payment in full. No supplemental payment can be requested or accepted from the resident and/or designee.
- (B) Medicaid payment is considered to be payment in full in instances when a medicaid resident is given private room accommodations and no semiprivate or ward accommodations are available. The facility may not seek supplemental payment from other sources such as the resident or the family unless a bed in semiprivate accommodations becomes available, and paragraph (C) of this rule applies.
- (C) If a bed in semiprivate accommodations is available and offered to a resident, but the resident or the responsible party specifically requests private room accommodations, the private room accommodation is considered a noncovered service.

In these instances, the facility may seek supplemental payment from the resident under the following conditions:

- (1) The supplemental payment amount shall represent no more than the difference between the NF's or ICF's-MR charge to private pay residents for semiprivate room accommodations ACCOMMODATIONS, and the charge to private pay residents for private room accommodations ACCOMMODATIONS; and
- (2) The charge for private room accommodations ACCOMMODATIONS shall not include charges for services covered by the medicaid program, whether or not the medicaid payment meets the NF's or ICF's-MR cost for the per diem service; and
- (3) Both monthly and annual supplemental charges, if applicable, are to be detailed on the resident's statement of charges so that the additional cost of the private room is evident to the resident and family; and

TN #~~00-010~~ APPROVAL DATE 7/1/00  
SUPERSEDES  
TN #97-19 EFFECTIVE DATE 7/1/00

5101:3-3-23

Page 2 of 2

- (4) The amount of any supplemental payment is not considered as an offset in determining the resident's liability for cost of care. All income which would otherwise be considered available to apply to the cost of care at the medicaid rate will continue to be considered available.

Effective date: \_\_\_\_\_

Review Date: \_\_\_\_\_

Certification: \_\_\_\_\_

\_\_\_\_\_  
Date

Promulgated under: RC Chapter 119.  
Statutory authority: RC Section 5111.02  
Rule amplifies: RC Sections 5111.01 AND 5111.02  
Prior effective date: 9/2/82, 1/1/95

MAY 07 2000

5101:3-3-871 ICF-MR OUTLIER SERVICES FOR BEHAVIORAL REDIRECTION AND MEDICAL MONITORING (ICF-MR- BRMM SERVICES).

(A) PURPOSE.

THIS RULE IDENTIFIES A SUB-POPULATION OF THOSE PERSONS DETERMINED TO REQUIRE AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED (ICF-MR) LEVEL OF CARE, WHOSE CARE NEEDS ARE NOT ADEQUATELY MEASURED BY THE INDIVIDUAL ASSESSMENT FORM (IAF) IN EFFECT ON THE EFFECTIVE DATE OF THIS RULE (AS DESCRIBED IN RULE 5101:3-3-75 OF THE ADMINISTRATIVE CODE) OR BY THE RESIDENT ASSESSMENT CLASSIFICATION (RAC) CASE MIX SYSTEM IN EFFECT ON THE EFFECTIVE DATE OF THIS RULE (AS DESCRIBED IN RULE 5101:3-3-76 OF THE ADMINISTRATIVE CODE.) PURSUANT TO SECTION 5111.257 OF THE REVISED CODE, THIS RULE SETS FORTH:

- (1) IN PARAGRAPH (C) OF THIS RULE, THE CRITERIA TO DETERMINE IF A PERSON WITH AN ICF-MR LEVEL OF CARE IS ELIGIBLE FOR OUTLIER SERVICES FOR BEHAVIORAL REDIRECTION AND MEDICAL MONITORING (ICF-MR -BRMM); AND
- (2) IN PARAGRAPH (D) OF THIS RULE, THE CONDITIONS UNDER WHICH ICF-MR OR DISCRETE UNITS WITHIN AN ICF-MR MAY BE APPROVED BY THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) AS ELIGIBLE PROVIDERS OF ICF-MR-BRMM SERVICES AND THEREBY RECEIVE PAYMENT ESTABLISHED IN ACCORDANCE WITH RULE 5101:3-3-25 OF THE ADMINISTRATIVE CODE IN LIEU OF PAYMENT ESTABLISHED IN ACCORDANCE WITH RULE 5101:3-3-78 OF THE ADMINISTRATIVE CODE; AND
- (3) IN PARAGRAPH (E) OF THIS RULE, THE PRIOR AUTHORIZATION PROCESS FOR ADMISSION OR CONTINUED STAY FOR INDIVIDUALS WHO ARE SEEKING MEDICAID PAYMENT FOR ICF-MR -BRMM SERVICES; AND
- (4) IN CLOSING PARAGRAPHS OF THIS RULE, DETAILS ABOUT THE PROVIDER AGREEMENT ADDENDUM, AUTHORIZATION FOR PAYMENT, AND MATERIALS TO BE SUBMITTED BY THE PROVIDER FOR SETTING THE INITIAL AND SUBSEQUENT CONTRACTED PROVIDER PER DIEM RATE.

RECEIVED 01 2008

TN #00-010 APPROVAL DATE \_\_\_\_\_  
SUPERSEDES  
TN #new EFFECTIVE DATE 7/1/00

5101:3-3-871

PAGE 2 OF 24

(B) DEFINITIONS:

- (1) "BEHAVIORAL PHENOTYPE" REFERS TO THE OBSERVABLE OR MEASURABLE EXPRESSION OF A GENE OR GENES AND THE HEIGHTENED PROBABILITY THAT PEOPLE WITH A GIVEN SYNDROME WILL EXHIBIT BEHAVIORAL OR DEVELOPMENTAL SEQUELLA RELATIVE TO OTHERS WITHOUT THE SYNDROME.
- (2) "ICF-MR" MEANS INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED. AN "ICF-MR" IS A LONG TERM CARE FACILITY CERTIFIED BY THE MEDICAL ASSISTANCE PROGRAM TO PROVIDE SERVICES TO INDIVIDUALS WITH MENTAL RETARDATION OR A RELATED CONDITION WHO REQUIRE ACTIVE TREATMENT AS DEFINED AT 42 CFR 483.440. IN ORDER TO BE ELIGIBLE FOR VENDOR PAYMENT IN AN ICF-MR, A MEDICAID RECIPIENT MUST BE ASSESSED AND DETERMINED BY ODJFS TO BE IN NEED OF AN ICF-MR LEVEL OF CARE AS OUTLINED IN RULE 5101:3-3-07 OF THE ADMINISTRATIVE CODE.
- (3) "ICF-MR-BRMM" MEANS AN ICF-MR, APPROVED BY ODJFS TO DELIVER OUTLIER SERVICES FOR BEHAVIORAL REDIRECTION AND MEDICAL MONITORING (BRMM), WHICH HOLDS AN EFFECTIVE ICF-MR-BRMM PROVIDER AGREEMENT WITH ODJFS .
- (4) "INDIVIDUAL", FOR PURPOSES OF THIS RULE, MEANS ANY PERSON WHO IS SEEKING OR RECEIVING MEDICAID COVERAGE OF PRIOR AUTHORIZED ICF-MR-BRMM SERVICES.
- (5) "INDIVIDUAL PLAN (IP)" MEANS A WRITTEN DESCRIPTION OF THE SERVICES TO BE PROVIDED TO AN INDIVIDUAL, DEVELOPED BY AN INTERDISCIPLINARY TEAM THAT REPRESENTS THE PROFESSIONS, DISCIPLINES OR SERVICE AREAS THAT ARE RELEVANT TO IDENTIFYING THE INDIVIDUAL'S NEEDS, AS DESCRIBED BY THE COMPREHENSIVE FUNCTIONAL ASSESSMENTS.
- (6) "LEVEL OF CARE (LOC) REVIEW" IS THE EVALUATION OF AN INDIVIDUAL'S PHYSICAL, MENTAL AND SOCIAL/EMOTIONAL STATUS TO DETERMINE THE LEVEL OF CARE REQUIRED TO MEET THE INDIVIDUAL'S SERVICE NEEDS. LEVEL OF CARE REVIEW IS CONDUCTED PURSUANT TO PARAGRAPH 1902 (a)(30) OF THE SOCIAL SECURITY ACT AND INCLUDES ACTIVITIES NECESSARY TO SAFEGUARD AGAINST UNNECESSARY UTILIZATION. LOC DETERMINATIONS ARE BASED UPON THE CRITERIA REGARDING THE AMOUNT AND TYPE OF SERVICES NEEDED BY AN INDIVIDUAL THAT ARE SET FORTH IN RULES

TN #00-010 APPROVAL DATE \_\_\_\_\_  
SUPERSEDES  
TN #7111 EFFECTIVE DATE 7/1/00

MAY 01 2000

5101:3-3-871

PAGE 3 OF 24

CONTAINED IN CHAPTER 5101:3-3 OF THE ADMINISTRATIVE CODE. THE LOC PROCESS IS ALSO THE MECHANISM BY WHICH MEDICAID VENDOR PAYMENT IS INITIATED FOR NON-OUTLIER FACILITIES. (FOR OUTLIER FACILITIES, INDIVIDUALS ALSO REQUIRE WRITTEN PREADMISSION OR CONTINUED STAY PRIOR AUTHORIZATION APPROVAL FROM ODJFS BEFORE VENDOR PAYMENT CAN BE INITIATED OR CONTINUED FOR A TIME-SPECIFIC DURATION.)

- (7) "ODJFS DESIGNATED OUTLIER COORDINATOR" MEANS A DESIGNATED ODJFS STAFF MEMBER WHO COORDINATES THE GENERAL OPERATIONS OF THE LONG TERM CARE FACILITY OUTLIER PROGRAM AS AUTHORIZED BY SECTION 5111.257 OF THE REVISED CODE. THIS COORDINATOR'S DUTIES INCLUDE, BUT ARE NOT LIMITED TO, ASSISTING WITH THE INITIAL APPROVAL AND ONGOING MONITORING OF OUTLIER PROVIDER FACILITIES, COORDINATING THE PROCESSING OF PREADMISSION AND CONTINUED STAY PRIOR AUTHORIZATION REQUESTS FOR INDIVIDUALS, REPRESENTING ODJFS AS A TEAM MEMBER ON THE INDIVIDUAL'S INTERDISCIPLINARY TEAM, AND REVIEWING ASSESSMENTS, INDIVIDUAL PLANS, DAY PROGRAMMING PLANS, STAFFING PLANS, AND OTHER DOCUMENTS. THIS COORDINATOR WORKS ACTIVELY WITH PROVIDERS OF OUTLIER SERVICES, THE INDIVIDUALS AND THEIR REPRESENTATIVES REQUESTING AND RECEIVING OUTLIER SERVICES, OTHER SERVICE AGENCIES, AND WITHIN ODJFS.
- (8) "OUTLIER SERVICES" HAS THE SAME MEANING AS SET FORTH IN RULE 5101:3-3-25 OF THE ADMINISTRATIVE CODE.
- (9) "OUTLIER PRIOR AUTHORIZATION COMMITTEE" MEANS A COMMITTEE ORGANIZED AND OPERATED BY ODJFS THAT MAKES OUTLIER PRIOR AUTHORIZATION DETERMINATIONS.
- (10) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR OSTEOPATHY WHO IS LICENSED TO PRACTICE MEDICINE.
- (11) "PLAN OF CORRECTION" MEANS A CORRECTIVE ACTION PLAN PREPARED BY A FACILITY IN RESPONSE TO DEFICIENCIES CITED BY THE SURVEY AGENCY. THE PLAN MUST CONFORM TO REGULATIONS AND GUIDELINES AND INCLUDE INFORMATION THAT DESCRIBES HOW THE DEFICIENCY WILL BE CORRECTED, WHEN IT WILL BE CORRECTED, HOW OTHER RESIDENTS THAT MAY BE AFFECTED BY THE DEFICIENCY WILL BE IDENTIFIED, AND HOW THE FACILITY WILL ASSURE THAT COMPLIANCE WILL BE MAINTAINED UPON CORRECTION.

TN #00-010 APPROVAL DATE \_\_\_\_\_

SUPERSEDES

TN #new EFFECTIVE DATE 7/1/00

5101:3-3-871

PAGE 4 OF 24

- (12) "PRIMARY DIAGNOSIS" MEANS A DIAGNOSIS NOT DERIVED FROM ANY OTHER SOURCE OR CAUSE, SPECIFICALLY THE ORIGINAL CONDITION OR SET OF SYMPTOMS IN DISEASE PROCESSES.
- (13) "PRIOR AUTHORIZATION ASSESSMENT FOR ICF-MR-BRMM SERVICES" IS THE EVALUATION OF WHETHER AN INDIVIDUAL MEETS THE CRITERIA TO BE SERVED BY AN ICF-MR-BRMM PROVIDER AS OUTLINED IN PARAGRAPHS (C)(3) TO (C)(12) OF THIS RULE, AND TAKES PLACE ONLY AFTER THE INDIVIDUAL IS DETERMINED TO MEET THE FINANCIAL ELIGIBILITY AND LEVEL OF CARE REQUIREMENTS SET FORTH IN PARAGRAPHS (C)(1) AND (C)(2) OF THIS RULE.
- (14) "PRIOR AUTHORIZATION APPROVAL FOR ICF-MR-BRMM SERVICES" MEANS APPROVAL OBTAINED BY THE PROVIDER OF ICF-MR-BRMM SERVICES FROM ODJFS ON BEHALF OF A SPECIFIC INDIVIDUAL FOR SPECIFIC TIME-SPECIFIED INITIAL OR CONTINUED PERIODS OF STAY AT AN ICF-MR WHICH HOLDS AN EFFECTIVE ICF-MR-BRMM PROVIDER AGREEMENT. PRIOR AUTHORIZATION FOR ICF-MR-BRMM SERVICES IS NECESSARY FOR THE PROVIDER TO BE AUTHORIZED BY ODJFS TO RECEIVE REIMBURSEMENT FOR SERVICES RENDERED TO THE INDIVIDUAL, BECAUSE PAYMENT RATES FOR THESE SERVICES ARE DETERMINED THROUGH A CONTRACTED RATE PROCESS IN ACCORDANCE WITH RULE 5101:3-3-25 OF THE ADMINISTRATIVE CODE. REIMBURSEMENT MAY BE DENIED FOR ANY SERVICE NOT RENDERED IN ACCORDANCE WITH THE DEPARTMENT'S RULES CONTAINED IN CHAPTER 5101:3 OF THE ADMINISTRATIVE CODE.
- (a) INITIAL PRIOR AUTHORIZATION FOR ICF-MR-BRMM SERVICES. UNLESS THE INDIVIDUAL IS SEEKING A CHANGE OF PAYER, THE PRIOR AUTHORIZATION OF PAYMENT FOR ICF-MR-BRMM SERVICES MUST OCCUR PRIOR TO ADMISSION TO THE ICF-MR-BRMM.
- (b) CONTINUED STAY PRIOR AUTHORIZATION FOR ICF-MR-BRMM SERVICES. IN THE CASE OF REQUESTS FOR CONTINUED STAY, THE PRIOR AUTHORIZATION OF PAYMENT FOR ICF-MR-BRMM SERVICES MUST OCCUR NO LATER THAN THE FINAL DAY OF THE PREVIOUSLY AUTHORIZED ICF-MR-BRMM STAY.
- (15) "PROGRESSIVE SERIOUS MEDICAL CONDITION" MEANS AN ILLNESS, INJURY, IMPAIRMENT OR PHYSICAL OR MENTAL CONDITION OR A COMBINATION OF MENTAL AND PHYSICAL CONDITIONS, THAT

TN #00-010 APPROVAL DATE \_\_\_\_\_  
SUPERSEDES  
TN #7100 EFFECTIVE DATE 7/1/00

5101:3-3-871

PAGE 5 OF 24

- (a) CONTINUES OVER AN EXTENDED PERIOD OF TIME, AND
  - (b) INVOLVES A REGIMEN OF CONTINUING TREATMENT AND/OR PERIODIC VISITS/MONITORING OF A PHYSICIAN, OR BY A NURSE OR PHYSICIAN'S ASSISTANT UNDER DIRECT SUPERVISION OF A PHYSICIAN, AND
  - (c) INVOLVES THE CHARACTERISTIC SIGNS AND SYMPTOMS OF THE CONDITION BECOMING MORE PROMINENT BY MANIFESTING MORE FREQUENTLY OR INCREASING IN SEVERITY AS PART OF THE COURSE OF THE CONDITION.
- (16) "QMRP" MEANS QUALIFIED MENTAL RETARDATION PROFESSIONAL, A PERSON WHO HAS AT LEAST ONE YEAR OF EXPERIENCE WORKING DIRECTLY WITH PERSONS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES; AND IS A DOCTOR OF MEDICINE OR OSTEOPATHY, A REGISTERED NURSE, OR AN INDIVIDUAL WHO HOLDS AT LEAST A BACHELOR'S DEGREE IN A PROFESSIONAL CATEGORY WHICH MEETS THE REQUIREMENTS OUTLINED IN 42 CFR 483.420 (b).
- (17) "REPEAT DEFICIENCY" MEANS A DEFICIENCY CITED ON A LICENSURE OR CERTIFICATION SURVEY, VERIFIED TO HAVE BEEN CORRECTED BY A SUBSEQUENT SURVEY, AND CITED AGAIN ON THE NEXT ANNUAL OR COMPLAINT SURVEY.
- (18) "REPRESENTATIVE" MEANS A PERSON ACTING ON BEHALF OF AN INDIVIDUAL WHO IS APPLYING FOR OR RECEIVING MEDICAL ASSISTANCE. A REPRESENTATIVE MAY BE A FAMILY MEMBER, GUARDIAN, ATTORNEY, HOSPITAL SOCIAL WORKER, ICF-MR SOCIAL WORKER, OR ANY OTHER PERSON CHOSEN TO ACT ON THE INDIVIDUAL'S BEHALF.
- (19) "SECONDARY MEDICAL CONDITION" MEANS ANY ADDITIONAL PHYSICAL OR MENTAL HEALTH CONDITION THAT OCCURS MORE FREQUENTLY AMONG PEOPLE HAVING A SPECIFIC PRIMARY PROGRESSIVE SERIOUS MEDICAL CONDITION.
- (C) ELIGIBILITY CRITERIA FOR INDIVIDUALS.

TO RECEIVE PRIOR AUTHORIZATION APPROVAL FOR ICF-MR-BRMM SERVICES, THE INDIVIDUAL MUST MEET ALL THE FOLLOWING CRITERIA.

TN #00-010 APPROVAL DATE \_\_\_\_\_  
SUPERSEDES  
TN #New EFFECTIVE DATE 7/1/00

MAY 01 2000

5101:3-3-871

PAGE 6 OF 24

(1) FINANCIAL ELIGIBILITY.

THE INDIVIDUAL MUST HAVE BEEN DETERMINED BY THE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES (CDJFS) TO MEET THE MEDICAID FINANCIAL ELIGIBILITY STANDARDS FOR INSTITUTIONAL CARE.

(2) ICF-MR LEVEL OF CARE.

THE INDIVIDUAL MUST HAVE RECEIVED A LEVEL OF CARE DETERMINATION FROM ODJFS WITHIN THE LAST THIRTY DAYS THAT THE PERSON REQUIRES SERVICES AT AN ICF-MR, OR AT THE TIME OF PRIOR AUTHORIZATION ASSESSMENT FOR ICF-MR-BRMM SERVICES, BE DETERMINED BY ODJFS TO MEET THE CRITERIA FOR AN ICF-MR LEVEL OF CARE, AS SET FORTH IN RULE 5101:3-3-07 OF THE ADMINISTRATIVE CODE.

(3) PRESENCE OF DEVELOPMENTAL DISABILITY.

THE INDIVIDUAL MUST HAVE EITHER A DEVELOPMENTAL DISABILITY OTHER THAN MENTAL RETARDATION, OR HAVE A DIAGNOSIS OF MENTAL RETARDATION AND HAVE BEEN DETERMINED TO FUNCTION AT THE MILD OR MODERATE INTELLECTUAL LEVEL IN ACCORDANCE WITH STANDARD MEASUREMENTS AS RECORDED IN THE MOST CURRENT REVISION OF THE MANUAL OF TERMINOLOGY AND CLASSIFICATION IN MENTAL RETARDATION PUBLISHED BY THE AMERICAN ASSOCIATION ON MENTAL RETARDATION.

(4) PRESENCE OF PROGRESSIVE SERIOUS MEDICAL CONDITION.

THE INDIVIDUAL MUST HAVE A PRIMARY "PROGRESSIVE SERIOUS MEDICAL CONDITION" OTHER THAN A MENTAL OR PHYSICAL IMPAIRMENT SOLELY CAUSED BY MENTAL ILLNESS AS DEFINED IN DIVISION (A) OF SECTION 5122.01 OF THE REVISED CODE AND OTHER THAN MENTAL RETARDATION, WHICH IS GENERALLY ACKNOWLEDGED TO BE ASSOCIATED WITH:

- (a) BEHAVIORS POSING A SUBSTANTIAL RISK OF INJURY TO SELF OR OTHERS WHICH CANNOT BE ERADICATED BY PSYCHIATRIC, PHARMACOLOGIC, NEUROLOGIC, OR BEHAVIORAL INTERVENTION, OR COMBINATION OF INTERVENTIONS; AND

TN #00-010 APPROVAL DATE 3/11/00  
SUPERSEDES  
TN #744 EFFECTIVE DATE 7/1/00

5101:3-3-871

PAGE 7 OF 24

(b) BEHAVIORS REQUIRING A RESTRICTIVE ENVIRONMENT TO MAINTAIN HEALTH AND SAFETY.

(5) PRESENCE OF SECONDARY MEDICAL CONDITION.

THE INDIVIDUAL MUST HAVE AT LEAST ONE MEDICAL CONDITION OTHER THAN MENTAL ILLNESS OR MENTAL RETARDATION WHICH IS A SECONDARY MANIFESTATION OF THE PRIMARY PROGRESSIVE SERIOUS MEDICAL CONDITION LISTED IN PARAGRAPH (C)(4) OF THIS RULE; AND WHICH, WITHOUT INTERVENTION, WOULD THREATEN THE PERSON'S MEDICAL STABILITY.

(6) EPISODE OF INJURY TO SELF OR OTHERS AND CONTINUING RISK OF INJURY TO SELF OR OTHERS.

(a) WITHIN THE TWELVE MONTHS PRECEDING THE INITIAL PRIOR AUTHORIZATION ASSESSMENT FOR ICF-MR-BRMM SERVICES, THE INDIVIDUAL MUST HAVE EXHIBITED BEHAVIOR WHICH IS GENERALLY ACKNOWLEDGED TO BE ASSOCIATED WITH ONE OF THE MEDICAL CONDITIONS FROM PARAGRAPH (C)(4) OR (C)(5) OF THIS RULE THAT RESULTED IN SUBSTANTIAL INJURY TO SELF OR OTHERS.

(b) WITHIN THE TWELVE MONTHS PRIOR TO ANY CONTINUED STAY PRIOR AUTHORIZATION ASSESSMENT FOR ICF-MR-BRMM SERVICES, THE INDIVIDUAL MUST HAVE EXHIBITED BEHAVIOR WHICH IS GENERALLY ACKNOWLEDGED TO BE ASSOCIATED WITH ONE OF THE MEDICAL CONDITIONS FROM PARAGRAPH (C)(4) OR (C)(5) OF THIS RULE THAT POSES SUBSTANTIAL RISK OF INJURY TO SELF OR OTHERS.

(7) PRESENCE OF ABERRANT MOTIVATIONAL BEHAVIORAL PROFILE.

WITHIN THE PRIOR TWELVE MONTHS, THE INDIVIDUAL MUST HAVE EXHIBITED A CONSISTENT PATTERN OF BEHAVIORS OR FREQUENT EPISODES WHICH DISPLAY THE FOLLOWING BEHAVIORAL PROFILE:

(a) LACKS IMPULSE CONTROL, AND

(b) EXHIBITS PURPOSEFUL, BUT DYSFUNCTIONAL, GOAL-DIRECTED BEHAVIOR TO OBTAIN OR AVOID SOMETHING; AND

TN #00-010 APPROVAL DATE NOV 11 2000

SUPERSEDES

TN #new EFFECTIVE DATE 7/1/00

5101:3-3-871

PAGE 8 OF 24

- (c) MAKES MANIPULATIVE THREATS OF HARM TO SELF, OTHERS OR PROPERTY TO OBTAIN THIS GOAL; AND
  - (d) HAS THE PHYSICAL CAPABILITY TO CARRY OUT THE THREATS; AND
  - (e) HAS A HISTORY OF CARRYING OUT THE THREATS AND/OR CURRENTLY ATTEMPTS TO CARRY OUT THE THREATS.
- (8) CONSTANT MONITORING AND CONTINUAL BEHAVIORAL INTERVENTION.

FOR INDIVIDUALS ELIGIBLE TO RECEIVE ICF-MR-BRMM SERVICES, REDUCTION IN HEALTH AND SAFETY RISKS ARE EXPECTED TO RESULT FROM EXTERNAL AND CONTINUOUSLY REQUIRED INTERVENTION, NOT FROM ANY EXPECTED INTERNAL GAINS IN INSIGHT OR IMPULSE CONTROL BY THE INDIVIDUAL OR ELIMINATION OF RISK THROUGH MEDICAL TREATMENT OF THE MEDICAL CONDITIONS.

- (a) THE INDIVIDUAL MUST EXHIBIT BEHAVIORS GENERALLY ACKNOWLEDGED TO BE ASSOCIATED WITH THE MEDICAL CONDITIONS DESCRIBED IN PARAGRAPH (C)(4) OR (C)(5) OF THIS RULE WHICH ARE NOT EXPECTED TO BE ELIMINATED THROUGH THE IMPLEMENTATION OF PSYCHIATRIC, NEUROLOGIC OR PHARMACOLOGIC INTERVENTIONS, OR COMBINATION OF INTERVENTIONS, AND THUS PRESENT A CONTINUING NEED FOR TEMPORARY CONTROL THROUGH BEHAVIORAL INTERVENTION STRATEGIES, SUCH AS BEHAVIORAL REDIRECTION.
  - (b) THE INDIVIDUAL MUST REQUIRE CONSTANT STAFF ATTENTION DURING WAKING HOURS FOR REDIRECTION AND INTERVENTION; AND AWAKE STAFF SUPERVISION TWENTY-FOUR HOURS PER DAY, SEVEN DAYS PER WEEK
- (9) A SUBSTANTIALLY RESTRICTIVE ENVIRONMENT.

THE INDIVIDUAL MUST HAVE AT LEAST ONE BEHAVIORAL MANIFESTATION GENERALLY ACKNOWLEDGED TO BE ASSOCIATED WITH THE PRIMARY MEDICAL CONDITION LISTED IN PARAGRAPH (C)(4) OF THIS RULE WHICH REQUIRES A SUBSTANTIALLY RESTRICTIVE ENVIRONMENT TO MAINTAIN HEALTH AND SAFETY BY ELIMINATING OPPORTUNITIES FOR THE BEHAVIOR TO OCCUR.

TN # DD-070 APPROVAL DATE APR 01 2009  
SUPERSEDES  
TN # 7100 EFFECTIVE DATE 7/1/00

5101:3-3-871

PAGE 9 OF 24

(10) LESS RESTRICTIVE SETTINGS RULED OUT.

THE INDIVIDUAL MUST NOT BE ABLE TO HAVE THESE BEHAVIORAL AND MEDICAL NEEDS MET IN ANY SETTING LESS RESTRICTIVE THAN AN ICF-MR-BRMM.

(D) PROVIDER ELIGIBILITY:

IN ORDER TO OBTAIN AN "ICF-MR-BRMM PROVIDER AGREEMENT" AND THEREBY TO QUALIFY FOR ENHANCED PAYMENT FOR THE PROVISION OF ICF-MR-BRMM SERVICES TO INDIVIDUALS WHO HAVE RECEIVED PRIOR AUTHORIZATION FOR ADMISSION OR CONTINUED STAY BY ODJFS, THE PROVIDER MUST MEET ALL OF THE FOLLOWING REQUIREMENTS. PRIOR TO ENROLLMENT AS AN ICF-MR- BRMM PROVIDER, AND AT REGULAR INTERVALS SUBSEQUENT TO THAT ENROLLMENT TO BE DETERMINED BY ODJFS, ODJFS SHALL DETERMINE WHETHER THE QUALIFICATIONS ARE FULFILLED, THROUGH REVIEW OF DOCUMENTATION OF APPROPRIATE POLICIES AND PROCEDURES, COMPLETION OF ON-SITE VISITS, AND THROUGH OTHER MECHANISMS AS DETERMINED BY ODJFS STAFF TO BE APPROPRIATE.

(1) CERTIFIED ICF-MR AND CONSENT TO ODJFS OVERSIGHT.

THE PROVIDER MUST BE AN OHIO MEDICAID-CERTIFIED ICF-MR AND AGREE TO COOPERATE WITH THE ODJFS OVERSIGHT FUNCTION FOR PROVISION OF ICF-MR-BRMM SERVICES.

(2) CONTRACTED RATES.

BASED ON MATERIALS SUBMITTED BY THE PROVIDER IN ACCORDANCE WITH PARAGRAPHS (H) AND (I) OF THIS RULE AND THE METHODOLOGY SET FORTH IN RULE 5101:3-3-25 OF THE ADMINISTRATIVE CODE, ODJFS SHALL CONTRACT WITH THE PROVIDER TO SET INITIAL AND SUBSEQUENT RATES. WITH THE EXCEPTION OF ANY SPECIFIC ITEMS THAT ARE DIRECT BILLED IN ACCORDANCE WITH RULE 5101:3-3-19 OF THE ADMINISTRATIVE CODE, THE PROVIDER MUST AGREE TO ACCEPT, AS PAYMENT IN FULL, THE PER DIEM RATE ESTABLISHED FOR ICF-MR-BRMM SERVICES IN ACCORDANCE WITH RULE 5101:3-3-25 OF THE ADMINISTRATIVE CODE, AND TO MAKE NO ADDITIONAL CHARGE TO THE INDIVIDUAL, ANY MEMBER OF THE INDIVIDUAL'S FAMILY, OR TO ANY OTHER SOURCE FOR COVERED ICF-MR-BRMM SERVICES.

TN #00-010 APPROVAL DATE 8/1/00  
SUPERSEDES  
TN #7400 EFFECTIVE DATE 7/1/00

5101:3-3-871

## (3) DEDICATED FACILITY OR DISCRETE UNIT OF FACILITY.

ICF-MR-BRMM SERVICES MUST BE PROVIDED IN EITHER A DISCRETE, DISTINCTLY IDENTIFIED UNIT OF THE ICF-MR DEDICATED TO THE PROVISION OF OUTLIER SERVICES FOR PERSONS REQUIRING ICF-MR-BRMM SERVICES OR IN A FREESTANDING ICF -MR. (IF THE SERVICE IS DELIVERED IN A DISTINCTLY IDENTIFIED UNIT OF A LARGER ICF-MR, THE PROVIDER'S STATE LICENSURE PROCESS AND ITS MEDICAID CERTIFICATION PROCESS MAY CONTINUE TO RECOGNIZE ONLY ONE FACILITY, BUT THE OHIO MEDICAL ASSISTANCE PROGRAM WOULD ISSUE SEPARATE PROVIDER AGREEMENTS TO THE OUTLIER AND THE NON-OUTLIER UNITS).

## (4) LICENSURE SURVEY FINDINGS.

WITHIN THE THIRTY-SIX MONTHS PRIOR TO ACCEPTANCE BY ODJFS AS A PROVIDER OF ICF-MR- BRMM SERVICES, THE PROVIDER MUST HAVE BEEN IN FULL COMPLIANCE WITH RESIDENTIAL FACILITY LICENSURE STANDARDS, OR HAVE AN APPROVED PLAN OF CORRECTIONS FROM THE LICENSING AGENCY, AND HAVE NOT DEMONSTRATED A PATTERN OF REPEAT DEFICIENCIES. NEW FACILITIES MAY NOT BE APPROVED AS PROVIDERS OF ICF-MR -BRMM SERVICES UNTIL ANY REQUIRED LICENSURE PLANS OF CORRECTION ARE IMPLEMENTED.

## (5) CERTIFICATION SURVEY FINDINGS.

WITHIN THE THIRTY-SIX MONTHS PRIOR TO ACCEPTANCE AS A PROVIDER OF ICF-MR-BRMM SERVICES, THE PROVIDER MUST HAVE FULLY MET ALL THE STANDARDS FOR MEDICAID ICF-MR CERTIFICATION, OR HAVE MET THE REQUIREMENTS OF 42 CFR 442.105 FOR FACILITY CERTIFICATION WITH DEFICIENCIES AND HAVE AN APPROVED PLAN OF CORRECTION FROM THE STATE SURVEY AND CERTIFICATION AGENCY, AND HAVE NOT DEMONSTRATED A PATTERN OF REPEAT DEFICIENCIES. FACILITIES MAY NOT BE APPROVED AS PROVIDERS OF ICF-MR-BRMM SERVICES UNTIL ANY REQUIRED CERTIFICATION PLANS OF CORRECTION ARE IMPLEMENTED.

## (6) PHYSICAL ENVIRONMENT.

## (a) SINGLE PERSON BEDROOMS.

EACH RESIDENT SHALL HAVE HIS OR HER OWN PRIVATE BEDROOM.

TN # 00-010 APPROVAL DATE MAY 01 2008  
 SUPERSEDES  
 TN # new EFFECTIVE DATE 7/1/00