

5101:3-3-77

Page 11 of 15

before the filing date, the ICF-MR exceeds the tolerance level for defaulted records prior to corrections, and ~~ODHS~~ ODJFS receives the "IAF Correction Document" postmarked thirty-one or more days after the due date.

- (3) ~~ODHS~~ ODJFS receives the initial quarterly submission of the facility's IAF data and the ~~ODHS 2222 JFS 02222~~ postmarked from one to thirty days after the filing date, and ~~ODHS~~ ODJFS receives the "IAF Correction Document" postmarked after the due date.
 - (4) ~~ODHS~~ ODJFS receives the initial quarterly submission of the facility's IAF data and the ~~ODHS 2222 JFS 02222~~ postmarked thirty-one or more days after the filing date.
 - (5) The facility continues to exceed the tolerance level even after the "IAF Correction Document(s)", received by ~~ODHS~~ ODJFS postmarked from one to thirty days after the "IAF Correction Document" due date, is/are processed.
 - (6) The facility continues to have facility level errors that prevent classification of records into RACS classes, even after the "IAF Correction Document(s)", and/or, as necessary, an original or amended ~~ODHS 2222 JFS 02222~~ form(s) and submission of any additional IAF form(s), received by ~~ODHS~~ ODJFS postmarked from one to thirty days after the "IAF Correction Document" due date, is/are processed.
- (J) ~~ODHS~~ ODJFS may continue to use an assigned quarterly facility average case mix score, as defined by paragraph (D)(1) of this rule, in lieu of the facility's quarterly average case mix score calculated based on the facility's submitted information, as described in paragraph (L) of this rule, for the third month of the payment quarter if any of the following occurs:
- (1) ~~ODHS~~ ODJFS does not receive the initial quarterly submission of the IAF data and the ~~ODHS 2222 JFS 02222~~ from the ICF-MR; or ~~ODHS~~ ODJFS receives the initial quarterly submission of the facility's IAF data and the ~~ODHS 2222 JFS 02222~~ postmarked over sixty days after the filing date.

TN #~~02-003~~ APPROVAL DATE APR 03 2002
SUPERSEDES

TN #95-15 EFFECTIVE DATE 1/13/02

5101:3-3-77

Page 12 of 15

- (2) ODHS ODJFS receives the initial quarterly submission of the facility's IAF data and the ODHS-2222 JFS 02222 postmarked on or before the filing date, the ICF-MR exceeds the tolerance level for defaulted records prior to corrections, and ODHS ODJFS receives the "IAF Correction Document" postmarked sixty or more days after the due date.
 - (3) ODHS ODJFS receives the initial quarterly submission of the facility's IAF data and the ODHS-2222 JFS 02222 postmarked from one to thirty days after the filing date, and ODHS ODJFS receives the "IAF Correction Document" postmarked over thirty days after the due date.
 - (4) ODHS ODJFS receives the initial quarterly submission of the facility's IAF data and the ODHS-2222 JFS 02222 postmarked from thirty one to sixty days after the filing date, and ODHS ODJFS receives the "IAF Correction Document" postmarked after the due date.
 - (5) The facility continues to exceed the tolerance level even after the "IAF Correction Document(s)", received by ODHS ODJFS, postmarked over thirty days after the due date, is/are processed.
 - (6) The facility continues to have facility level errors that prevent classification of records into RACS classes, even after the "IAF Correction Document(s)", and/or an original or amended ODHS-2222 JFS 02222 form(s) and submission of any additional IAF form(s), received by ODHS ODJFS, postmarked over thirty days after the due date, is/are processed.
- (K) Effective with the data submitted for the reporting quarter ending March 31, 1995 and thereafter, assessment data and corrections received by ODHS ODJFS after the due date for corrections stated in paragraph (G)(3) of this rule shall not be processed unless:
- (1) ODHS ODJFS uses an assigned score in lieu of the facility's score for the first month of the payment quarter in accordance with paragraph

TN #02-003 APPROVAL DATE APR 11 2002

SUPERSEDES

TN #95-15 EFFECTIVE DATE 1/13/02

5101:3-3-77

Page 13 of 15

- (H) of this rule, and ØDHS ODJFS receives corrections postmarked from one to thirty days after its due date that, when processed, enable ØDHS ODJFS to use the facility's actual score for the second and third months of the payment quarter; or
- (2) ØDHS ODJFS uses an assigned score in lieu of the facility's score for the first and second months of the payment quarter in accordance with paragraph (H) and paragraph (I) of this rule, and ØDHS ODJFS receives corrections postmarked from one to thirty days after its due date that, when processed, enable ØDHS ODJFS to use the facility's actual score for the third month of the payment quarter; or
- (3) ØDHS ODJFS uses an assigned score in lieu of the facility's score for the second month of the payment quarter in accordance with paragraph (I)(2) of this rule, and ØDHS ODJFS receives corrections postmarked from thirty-one to fifty-nine days after its due date that, when processed, enable ØDHS ODJFS to use the facility's actual score for the third month of the payment quarter.
- (L) The quarterly facility average case mix score for ICFs-MR that submitted their IAF data and corrections timely, have no facility level errors and do not exceed the tolerance level for defaulted records is calculated as follows:
- (1) All residents' case mix scores for the quarter, including resident scores in the fifth RACS class remaining after the correction document due date, are added together.
- (2) The sum of resident case mix scores is divided by the total number of residents.
- (M) The annual facility average case mix score is used to compute the cost per case mix unit for the ICF-MR and the direct care peer group maximum cost per case mix unit.

Effective for calendar year 1993 and thereafter, resident assessment data for all four quarters of the calendar year shall be used to calculate the annual facility average case mix score:

TN #02-009 APPROVAL DATE APR 03 2002
SUPERSEDES
TN #95-15 EFFECTIVE DATE 1/13/02

5101:3-3-77

Page 14 of 15

- (1) ~~ODHS~~ ODJFS-assigned facility average case mix scores as a result of late submissions of data, late submissions of corrections, exceeding the tolerance level for defaulted records or outstanding facility level errors, as described in paragraphs (H) to (J) of this rule, will be omitted from the facility's annual average case mix score calculation.

- (2) The annual facility average case mix score shall be calculated from no fewer than two acceptable quarterly average case mix scores. Acceptable quarterly facility average case mix scores shall be summed and divided by the total number of quarters of acceptable scores. Effective for calendar year 1995 and thereafter, acceptable quarterly average case mix scores for the purposes of calculating the annual facility average case mix score include, in order of hierarchy:
 - (a) Adjusted quarterly facility average case mix scores as a result of exception review findings, or

 - (b) Quarterly facility average case mix scores calculated based on the facility's submitted information as described in paragraph (L) of this rule and used for establishing the facility's direct care rate for at least one month of the payment quarter.

- (3) If at least two acceptable quarterly facility average case mix scores are not available by March thirty-first of the following calendar year, ~~ODHS~~ ODJFS shall assign the cost per case mix unit , as defined in paragraph (D)(2) of this rule.

TN #02-003 APPROVAL DATE APR 03 2002

SUPERSEDES

TN #95-15 EFFECTIVE DATE 1/13/02

5101:3-3-77

Page 15 of 15

Effective date:

RC 119.032 review dates:

Certification

Date

Promulgated under: RC Chapter 119.
Statutory authority: RC Sections 5111.02, 5111.231
Rule amplifies: RC Sections 5111.01, 5111.02, 5111.231
Prior effective dates: 4/15/93 (Emer.), 7/1/93, 7/1/94 (Emer.),
9/30/94, 4/20/95

TN #02-003 APPROVAL DATE APR 03 2002
SUPERSEDES
TN #95-15 EFFECTIVE DATE 1/13/02

~~5101:3-3-851~~ **5101:3-3-85.1 Exception review process for intermediate care facilities for the mentally retarded.**

(A) Definitions: The terms used in this rule have the same meaning as in rule 5101:3-3-77 of the Administrative Code, or are defined below:

- (1) "Exception review" is a review conducted at selected intermediate care facilities for the mentally retarded (ICFs-MR) by appropriate health professionals employed by the Ohio department of ~~human services (ODHS)~~, job and family services (ODJFS), for purposes of identifying any patterns or trends related to the ~~ODHS 2221~~ JFS 02221 "Ohio Individual Assessment Form Answer Sheet" submitted in accordance with rule 5101:3-3-75 of the Administrative Code, which result in inaccurate case mix scores being used to calculate the direct care rate.
- (2) "Effective date of the rate" is the first day of the payment quarter.
- (3) "Exception review tolerance level" is the level of variance between the facility and ~~ODHS~~ ODJFS in individual assessment form (IAF) assessment item responses affecting the resident assessment classification of a facility's residents. Two kinds of tolerance levels have been established for exception reviews: initial sample, and expanded review.
 - (a) "Initial sample tolerance level" is the percentage of unverifiable records found in the initial sample of resident records during the first phase of an exception review, below which no further review will be pursued. The exception review tolerance level for the initial sample of reviewed records from the most recent reporting quarter shall be fifteen per cent of the entire sample as set forth in ~~paragraph (B) of rule 5101:3-3-76 of the Administrative Code~~ appendix A of this rule.
 - (b) "Expanded review tolerance level" is an acceptable level of variance in the calculation of the quarterly facility average case mix score of the ICF-MR. The variance is calculated as a percentage difference between the score based on exception review findings compared to the score based on the submitted

TN #02-003 APPROVAL DATE _____
SUPERSEDES

TN #95-03 EFFECTIVE DATE 1/13/02

APR 03 2002

5101:3-3-85.1

Page 2 of 8

assessment records from the facility for that quarter.

- (i) For an exception review of the most recent reporting quarter conducted before the effective date of the rate, the exception review tolerance level is a two per cent difference between the quarterly facility average case mix score based on exception review findings and the quarterly facility average case mix score from the facility's submitted IAF records.
 - (ii) For an exception review of a given reporting quarter conducted after the effective date of the rate, the exception review tolerance level is a three per cent difference between the quarterly facility average case mix score based on exception review findings and the quarterly facility average case mix score from the facility's submitted IAF records.
- (4) "Verified IAF record" is an ~~ODHS 2221~~ JFS 02221, "Ohio Individual Assessment Form Answer Sheet," completed by the ICF-MR based on facility-supplied IAF assessment data, submitted to ~~ODHS ODJFS~~ for a resident for a specific reporting quarter which, upon examination by ~~ODHS ODJFS~~, has been determined to accurately represent the aspects of the resident's condition, during the specified assessment timeframe, that affect the correct assignment of that record into the resident assessment classification system (RACS) case mix payment system. Verification activities include reviewing resident assessment forms and supporting documentation, conducting interviews, and observing residents. An "unverified IAF record" is one which, upon examination, has been determined to not accurately represent the resident's condition, and therefore results in the residents inaccurate assignment into the RACS system.
- (B) All exception reviews will comply with the applicable rules prescribed pursuant to Titles XVIII and XIX of the Social Security Act.
- (C) Selection: During the selection process, ~~ODHS ODJFS~~ may contact the facility for clarification of information. The facility may be able to

TN #~~02-003~~ APPROVAL DATE APR 03 2002
SUPERSEDES

TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

Page 3 of 8

satisfactorily resolve the department's concerns at this point and avert an on-site review. ICFs-MR may be selected for an exception review by ~~ODHS~~ ODJFS based on any of the following:

- (1) The findings of a certification survey conducted by the Ohio department of health that the facility has been issued a deficiency in the condition of participation: active treatment services, as defined by 42 CFR section 483.440.
 - (2) A risk analysis profile of ICFs-MR with a sudden or drastic change in the frequency distribution of their residents in the RACS classes; or ICFs-MR for which other data indicate that the assessment information submitted by the facility may not result in accurate classification of the facility's residents in the RACS system.
 - (3) Prior resident assessment performance of the provider, including, but not limited to, ongoing problems with assessment submission deadlines, error rates, and incorrect assessment dates.
- (D) Exception reviews shall be conducted at the facility by qualified mental retardation professionals, registered nurses and other licensed or certified health professionals under contract with or employed by ~~ODHS~~ ODJFS. When a team of ~~ODHS~~ ODJFS reviewers conducts an on-site exception review, the team shall be led by a qualified mental retardation professional. Persons conducting exception reviews on behalf of ~~ODHS~~ ODJFS shall meet the following conditions:
- (1) During the period of their professional employment with ~~ODHS~~ ODJFS, reviewers must neither have nor be committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of an ICF-MR which they review in Ohio.
 - (2) Reviewers shall not review any facility that has been a client of the reviewer.
 - (3) Reviewers shall not review any facility that has been an employer of the reviewer.

TN #~~02-003~~ APPROVAL DATE APR 03 2002

SUPERSEDES

TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

Page 4 of 8

- (4) Employment of a member of a health professional's family by an ICF-MR that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of an ICF-MR.
- (E) Prior notice: ODHS ODJFS shall notify the facility by telephone and by facsimile at least two working days prior to the review. At the time of notification, ODHS ODJFS shall discuss the findings that led the department to decide to conduct an exception review.
- (F) Scheduling/rescheduling: Exception reviews of the most recent reporting quarter may be scheduled for any working day of the processing quarter, including the time between that reporting period end date and the filing date. ODHS ODJFS shall notify the ICF-MR prior to the previously scheduled time if reviewers are unable to visit the ICF-MR at the arranged time. At the discretion of ODHS ODJFS, the review team may reschedule the review if appropriate key personnel of the facility would be unavailable on the originally scheduled date of on-site review. Exception reviews shall not be conducted by ODHS ODJFS on dates when inspections of care, as set forth in rule 5101:3-3-154 of the Administrative Code, are conducted.
- (G) Facilities selected for exception reviews must provide ODHS ODJFS reviewers with reasonable access to residents, professional and nonlicensed direct care staff, the facility assessors, and completed resident assessment instruments as well as other documentation regarding the residents' care needs and treatments. Facilities must also provide ODHS ODJFS with sufficient information to be able to contact the resident's attending or consulting physicians, other professionals from all disciplines who have observed, evaluated or treated the resident, such as contracted therapists, and the resident's family/significant others. These sources of information may help to validate information provided on the resident assessment instrument and submitted to ODHS ODJFS.
- (H) An exception review shall initially be conducted of a preselected random, targeted, or combination sample of completed resident assessment instruments from the most recent reporting quarter. The initial sample size shall be greater than or equal to the minimum sample size presented in appendix A of this rule.

TN #02-003 APPROVAL DATE APR 03
SUPERSEDES
TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

Page 5 of 8

- (I) Results from review of the initial sample shall be used to decide if further action by ØDHS ODJFS is warranted. If the initial sample is to be expanded for further review, ØDHS ODJFS reviewers shall hold a conference with facility representatives advising them of the next steps of the review and discussing the initial sample findings. At the time of the conference, facilities shall be afforded an opportunity to present additional information or items which depict the needs of individuals for whom the provider contests the initial sample findings. If the sample of reviewed records exceeds the initial sample tolerance level described in paragraph (A)(3)(a) of this rule, ØDHS ODJFS
- (1) Shall first expand the sample size for the same reporting quarter and continue the review process; and
 - (2) May subsequently expand the exception review process to review IAF assessments submitted for no more than two quarters previous to the most recent reporting quarter.
- (J) At the conclusion of the on-site portion of the exception review process, ØDHS ODJFS reviewers shall hold an exit conference with facility representatives. Reviewers will share preliminary findings and/or concerns about verification or failure to verify RACS classification for reviewed records. At the time of the exit conference, facilities shall be afforded an opportunity to present additional information or items which depict the needs of individuals for whom the provider contests the sample findings.
- (K) All exception reviews shall include a written summary of findings. ØDHS ODJFS shall send a copy of the written summary of findings to the ICFs-MR.
- (L) All exception review reports shall be retained by ØDHS ODJFS for at least six years from the date the exception review report is final.
- (M) If the expanded review tolerance level is exceeded, ØDHS ODJFS shall use the exception review findings to calculate or recalculate resident case mix scores, quarterly facility average case mix scores and annual facility average case mix scores and adjust the facility's direct care component of the rate accordingly. Calculations or recalculations shall apply only to records actually reviewed by ØDHS ODJFS; and shall not be based on extrapolations to unreviewed records of findings from reviewed records. For example,

TN #~~02-003~~ APPROVAL DATE 08/03/2002
SUPERSEDES
TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

Page 6 of 8

ØDHS ODJFS shall recalculate a quarterly facility average case mix score by replacing resident case mix scores of reviewed records and not changing the resident case mix scores of unreviewed records.

- (N) ØDHS ODJFS shall use the quarterly and annual facility average case mix scores based on exception review findings which exceed the exception review tolerance level to calculate or recalculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters. However, scores recalculated based on exception review findings shall not be used to override any assignment of a quarterly facility average case mix score or a facility cost per case mix unit made in accordance with rule 5101:3-3-77 of the Administrative Code as a result of the facility's failure to submit or submission of incomplete or inaccurate resident assessment information, unless the recalculation results in a lower quarterly facility average case mix score or cost per case mix unit than the one to be assigned.
- (1) If the exception review of a specific reporting quarter is conducted before the effective date of the rate for the corresponding payment quarter, and the review results in findings that exceed the tolerance level, ØDHS ODJFS shall use the recalculated quarterly facility average case mix scores to calculate the facility's rate for direct care costs for that payment quarter. Calculated rates based on exception review findings may result in a rate increase or rate decrease compared to the rate based on the facility's submission of assessment information.
- (2) If the exception review of a specific reporting quarter is conducted after the effective date of the rate for a corresponding payment quarter, and the review results in findings that exceed the exception review tolerance level and indicate the facility received a lower rate than it was entitled to receive, ØDHS ODJFS shall increase the direct care rate prospectively for the remainder of the payment quarter, beginning one month after the first day of the month after the exception review is completed.
- (3) If the exception review of a specific reporting quarter is conducted after the effective date of the rate for a corresponding payment quarter, and the review results in findings that exceed the exception review tolerance level and indicate the facility received a higher rate

APR 03 2002

TN #~~02-003~~ APPROVAL DATE _____

SUPERSEDES

TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

Page 7 of 8

than it was entitled to receive, ~~TDHS~~ ODJFS shall reduce the direct care rate and apply it to the periods when the provider received the incorrect rate to determine the amount of the overpayment. Overpayments are payable in accordance with rule 5101:3-3-22 of the Administrative Code.

- (O) Except for additional information submitted to ~~TDHS~~ ODJFS as part of the processes set forth in paragraphs (P) and (Q) of this rule, the ~~TDHS~~ ODJFS exception review determination for any resident case mix score shall be considered final and the ICF-MR may not correct or amend the IAF data or submit any additional information for that individual record after exception reviewers have concluded the on-site review. An ICF-MR may, however, continue to submit current changes using the IAF correction document in accordance with rule 5101:3-3-77 of the Administrative Code for individual records that were not subject to an exception review finding.
- (P) The ICFs-MR may seek reconsideration in accordance with paragraph (B) of rule 5101:3-3-24 of the Administrative Code for direct care rates recalculated as a result of an exception review conducted before the effective date of the rate.
- (Q) The findings of an exception review conducted after the effective date of the rate may be appealed under provisions of the Administrative Procedure Act, Chapter 119, of the Revised Code. ~~TDHS~~ ODJFS shall not withhold from the facility's current payments any amounts ~~TDHS~~ ODJFS claims to be due from the facility as a result of the exception review finding while the ICFs-MR is pursuing administrative remedies in good faith.

TN #~~02-003~~ APPROVAL DATE APR 03 2004
SUPERSEDES
TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

Page 8 of 8

Effective date:

RC 119.032 review date:

Certification

Date

Promulgated under: RC Chapter 119.
Statutory authority: RC Sections 5111.02, 5111.27, 5111.29
Rule amplifies: RC Sections 5111.01, 5111.02, 5111.27,
5111.28, 5111.29
Prior effective dates: 1/1/95

TN #~~02-003~~ APPROVAL DATE DR 03 2002

SUPERSEDES

TN #95-03 EFFECTIVE DATE 1/13/02

5101:3-3-85.1

**AMEND
ENACTED
APPENDIX A**

Page 1 of 1

EXCEPTION REVIEW RESIDENT INITIAL SAMPLE SELECTION

RESIDENT CENSUS ON REPORTING PERIOD END DATE (REFERENCE ODHS 2322 JFS 02222)	MINIMUM INITIAL SAMPLE SIZE REQUIRED
1-4	ALL
5-10	5
11-20	8
21-40	10
41-44	11
45-48	12
49-52	13
53-56	14
57-75	15
76-80	16
81-85	17
86-90	18
91-95	19
96-100	20
101-105	21
106-110	22
111-115	23
116-160	24
161-166	25
167-173	26
174-180	27
181-186	28
187-193	29
194-300	30

TN # 02-003 APPROVAL DATE APR 03 2002

SUPERSEDES

TN # 95-03 EFFECTIVE DATE 1/13/02