



## Ohio Revised Code

### Section 5124.38 Process for reconsideration of rates.

Effective: September 30, 2021

Legislation: House Bill 110

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(A) The director of developmental disabilities shall establish a process under which an ICF/IID provider, or a group or association of ICF/IID providers, may seek reconsideration of medicaid payment rates established under this chapter. Except as provided in divisions (B) to (E) of this section, the only issue that a provider, group, or association may raise in the rate reconsideration is whether the rate was calculated in accordance with this chapter and the rules adopted under section 5124.03 of the Revised Code. The provider, group, or association may submit written arguments or other materials that support its position. The provider, group, or association and department shall take actions regarding the rate reconsideration within time frames specified in rules authorized by this section.

If the department determines, as a result of the rate reconsideration, that the rate established for one or more ICFs/IID is less than the rate to which the ICF/IID is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider of the ICF/IID the difference between the amount the provider was paid for that period for the ICF/IID and the amount the provider should have been paid for the ICF/IID.

(B)(1) The department, through the rate reconsideration process, may increase during a fiscal year the medicaid payment rate determined for an ICF/IID under this chapter if the provider demonstrates that the ICF/IID's actual, allowable costs have increased because of any of the following extreme circumstances:

(a) A natural disaster;

(b) If the ICF/IID has an appropriate claims management program, an increase in the ICF/IID's workers' compensation experience rating of greater than five per cent;

(c) If the ICF/IID is an inner-city ICF/IID, increased security costs;



(d) A change of ownership that results from bankruptcy, foreclosure, or findings by the department of health of violations of medicaid certification requirements;

(e) Other extreme circumstances specified in rules authorized by this section.

(2) An ICF/IID may qualify for a rate increase under this division only if its per diem, actual, allowable costs have increased to a level that exceeds its total rate. An increase under this division is subject to any rate limitations or maximum rates established by this chapter for specific cost centers. Any rate increase granted under this division shall take effect on the first day of the first month after the department receives the request.

(C) The department, through the rate reconsideration process, may increase an ICF/IID's rate as determined under this chapter if the department, in the department's sole discretion, determines that the rate as determined under those sections works an extreme hardship on the ICF/IID.

(D)(1) Subject to any applicable limitation under section 5124.17 of the Revised Code, when beds certified for the medicaid program are added to an existing ICF/IID or replaced at the same site, the department, through the rate reconsideration process, may proportionately increase the ICF/IID's per medicaid day capital component rate determined under that section to account for the costs of the beds that are added or replaced.

(2) If the department grants an increase under division (D)(1) of this section, the increase shall go into effect one month after the first day of the month after the department receives sufficient documentation needed to determine the amount of the increase.

(3) The provider of an ICF/IID that has its per medicaid day payment rate for reasonable capital costs increased under division (D)(1) of this section shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which the rate increase is granted, the provider, if the ICF/IID is operated by the same provider, shall subtract from the interest costs it reports on the ICF/IID's cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are



being reported;

(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the ICF/IID during the same calendar year.

(E) If the provider of an ICF/IID submits to the department revised assessment data for a resident of the ICF/IID under division (D) of section 5124.191 of the Revised Code and the revised assessment data results in at least a fifteen per cent increase in the ICF/IID's case-mix score determined under section 5124.193 of the Revised Code, the provider may request that the department, through the rate reconsideration process, increase the ICF/IID's per medicaid day direct care costs component rate determined under section 5124.19 of the Revised Code to account for the increase in the ICF/IID's case-mix score. If the department determines that the revised assessment data so increases the ICF/IID's case-mix score, the department shall grant the rate increase. The increase shall go into effect one month after the first day of the month after the department receives sufficient documentation needed to determine the amount of the increase.

(F) The department's decision at the conclusion of a rate reconsideration process is not subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(G) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section.