



## Ohio Revised Code

### Section 5124.39 Recoupment in case of delay in downsizing.

Effective: September 30, 2021

Legislation: House Bill 110

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(A) Except as provided in divisions (B) and (C) of this section, if the provider of an ICF/IID in former peer group 1-B, as that group existed on the date immediately preceding the effective date of this amendment, obtained approval from the department of developmental disabilities to become a downsized ICF/IID not later than July 1, 2018, and the ICF/IID does not become a downsized ICF/IID by that date, the department shall recoup from the provider an amount equal to the sum of the following:

(1) The difference between the amount of the efficiency incentive payments the ICF/IID earned under former sections 5124.171 and 5124.211 of the Revised Code, as those sections existed on the date immediately preceding the effective date of this amendment, because the provider obtained such approval and the amount of the efficiency incentive payments the ICF/IID would have earned under those sections had the provider not obtained such approval;

(2) An amount of interest on the difference determined under division (A)(1) of this section.

(B) The department shall exempt an ICF/IID provider from a recoupment otherwise required by this section if the provider voluntarily repays the department the difference determined under division (A)(1) of this section. No interest shall be charged on the amount voluntarily repaid.

(C) The department may exempt an ICF/IID provider from a recoupment otherwise required by this section if both of the following apply:

(1) The provider, on or before July 1, 2018, demonstrates to the department's satisfaction that the provider made a good faith effort to complete the downsizing by July 1, 2018, but the ICF/IID did not become a downsized ICF/IID by that date for reasons beyond the provider's control;

(2) The ICF/IID becomes a downsized ICF/IID within a period of time after July 1, 2018, that the department determines is reasonable.



(D) An ICF/IID provider subject to a recoupment under division (A) of this section or voluntarily making a repayment under division (B) of this section shall choose one of the following methods by which the recoupment or voluntary repayment shall be made:

(1) In a lump sum payment;

(2) Subject to the department's approval, in installment payments;

(3) In a single deduction from the next available medicaid payment made to the provider if that payment at least equals the total amount of the recoupment or voluntary repayment;

(4) Subject to the department's approval, in installment deductions from medicaid payments made to the provider.

(E) An ICF/IID provider may request that the director of developmental disabilities reconsider either or both of the following:

(1) A decision that the provider is subject to a recoupment under this section;

(2) A determination under this section of the amount to be recouped from the provider.

(F) The director shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section, including rules specifying how the amount of interest charged under division (A)(2) of this section is to be determined.