



COMMISSIONER
Jon Weizenbaum

December 4, 2014

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

Subject: **Provider Letter (PL) 14-16** – ICF/IID Expectations Related to Managed Care Organizations (MCOs)

The Texas Department of Aging and Disability Services (DADS) is issuing this letter to address the impact Senate Bill (SB) 7 (83rd Legislature, Regular Session, 2013) will have on ICF/IID survey expectations, including the plan of correction (PoC) and informal dispute resolution (IDR) processes. Specifically, providers have asked whether the implementation of SB 7 will change regulatory compliance expectations for ICFs/IID.

SB 7 requires the Health and Human Services Commission (HHSC) to provide acute care Medicaid services for certain individuals with an intellectual disability through Medicaid managed care. However, the bill made no changes to the federal regulations and state statutes that govern the ICF/IID program surveys, PoCs or IDRs. For a ICFs/IID, the Code of Federal Regulation (CFR) at 42 CFR §483.460(a) is explicit in detailing the requirements of ICFs/IID related to the provision of physician services. Examples of ICF/IID expectations that fall under the physician services rules defined in the CFR include the following:

- The facility must ensure the availability of physician services 24 hours a day.
- The facility must ensure the physician, in coordination with licensed nursing personnel, develops a medical care plan of treatment for a client if the physician determines that an individual client requires 24-hour licensed nursing care.
- The facility must ensure the medical plan is integrated in the individual program plan.
- The facility must ensure preventive and general care as well as annual physical examinations for each client.
- The facility must ensure the individual receives the services indicated by his/her health status.
- The facility must ensure there is follow-up to recommendations for referrals to specialists, specific examinations or evaluations, and treatments.

The ICF/IID requirements outlined in the CFR and rules governing ICFs/IID remain the full and direct responsibility of the provider. As such, DADS Regulatory Services expects ICFs/IID to remain in compliance with all of the ICF/IID program requirements. Surveyors will continue to ensure ICFs/IID meet the applicable provisions of the CFR, licensure standards (if applicable) and the Standards for Participation. The implementation of SB 7 will not change the way regulatory services surveys ICFs/IID.

If ICF/IID providers experience coordination difficulties with an MCO, DADS encourages the provider to contact the MCO via its hotline to resolve concerns. Additionally, ICFs/IID may elevate the issue to HHSC by emailing HHSC's complaint mailbox at HPM_complaints@hhsc.state.tx.us.

However, an ICF/IID provider should note that the above actions will not absolve the ICF/IID of its responsibility to comply with all applicable regulations. The provider would be expected to work with the physician and other available resources (other healthcare professionals, the individual or legally authorized representative, the interdisciplinary team, the MCO, etc.) to deliver the ordered service, obtain an amended physician's order, or develop an alternative plan to meet the individual's need until the coordination issues with the MCO are resolved.

If there are questions regarding regulatory policy or regulatory compliance procedures, ICF/IID providers should be directed to send them to the DADS Regulatory Services Policy, Rules and Curriculum Development Section at ICFRules-policyquestions@dads.state.tx.us.

To learn more about the expansion of managed care, please visit the HHSC webpage at: <http://www.hhsc.state.tx.us/medicaid/managed-care/mmc/starplus-expansion/adding-basic-health-services.shtml>.

Please send questions regarding the STAR+PLUS expansion or MCOs to: Managed_Care_Initiatives@hhsc.state.tx.us.

Sincerely,

[Signature on file]

Mary T. Henderson
Assistant Commissioner, Regulatory Services

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