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State/Territory Name: OH

State Plan Amendment (SPA) #: 16-024

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

NOV 18 2016

John McCarthy, Medicaid Director
Office of Ohio Health Plans
Ohio Department of Medicaid
P.O. Box 182709
50 West Town Street, Suite 400
Columbus, Ohio 43218

RE: Ohio State Plan Amendment (SPA) 16-024

Dear Mr. McCarthy:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 16-024. Effective July 1, 2016, this SPA amends payment for services for State Fiscal Year (SFY) 2017 rate setting for ICF/IID services.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. We hereby inform you that Medicaid State plan amendment 16-024 is approved effective July 1, 2016. We are enclosing the HCFA-179 and the amended plan pages.

If you have any questions, please contact Fred Sebree at (217) 492-4122 or Fredrick.sebree@cms.hhs.gov.

Sincerely,

[redacted]

Kristin Fan
Director

Enclosure

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: **16-024**	2. STATE **OHIO**
FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE **July 1, 2016**	

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:	7. FEDERAL BUDGET IMPACT:
42 CFR 440.150 42 CFR 447 Subpart C 42 CFR 483 Subpart I	a. FFY 2016 $3,318 thousands b. FFY 2017 $13,274 thousands
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:	**9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:**
Atch 4.19-D, Suppl. 2, pp 6, 8, 10, 11, 13, 14, 18 Atch 4.19-D, Suppl. 2, p 8a (new) Atch 4.19-D, Suppl. 2, p 16 Atch 4.19-D, Suppl. 2, p 19 Atch 4.19-D, Suppl. 2, p 20 Atch 4.19-D, Suppl. 2, pp 21, 22, 23 (new)	Atch 4.19-C, Suppl. 2, pp 1-10 of 10 (TN 07-011) - Delete Atch 4.19-D, Suppl. 2, pp 6, 8, 10, 11, 13, 14, 18 (TN 15-013) Atch 4.19-D, Suppl. 2, p 16 (TN 14-019) Atch 4.19-D, Suppl. 2, p 19 (TN 13-020) Atch 4.19-D, Suppl. 2, p 20 (TN 13-037)

10. SUBJECT OF AMENDMENT: Payment for services: State Fiscal Year (SFY) 2017 Rate Setting for ICF/IID services

11. 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 State Medicaid Director is the Governor's designee

12. SIGNATURE OF STATE AGENCY OFFICIAL: [redacted]	16. RETURN TO:
13. TYPED NAME: **JOHN B. McCARTHY**	**Carolyn Humphrey** **Ohio Department of Medicaid** **P.O. BOX 182709** **Columbus, Ohio 43218**
14. TITLE: **STATE MEDICAID DIRECTOR**	
15. DATE SUBMITTED: August 26, 2016	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:	18. DATE APPROVED: NOV 18 2016
PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: NOV 01 2016	20. SIGNATURE OF REGIONAL OFFICIAL: [redacted]
21. TYPED NAME: Kristen FAN	22. TITLE: Director, PMC

23. REMARKS:

Instructions on Back

FORM CMS-179 (07-92)

Calculation of Direct Care Per Diem for Peer Groups 1, 2, and 3

A direct care per diem rate is established for each intermediate care facility for individuals with intellectual disabilities except for those in Resident Assessment Classification groups 5N and 6N using allowable direct care costs as reported by each facility in accordance with the following calculation:

1) Calculate the direct care cost per diem for each provider by dividing the allowable direct care costs by the inpatient days reported on the same cost report.

2) Calculate the direct care cost per case mix unit for each provider by dividing the provider's direct care costs per diem by the annual average case mix score for the provider. The annual average case mix score is the average of the provider's scores for the March 31, June 30, September 30, and December 31 reporting period end dates for the calendar year corresponding to the calendar year for which costs are reported.

3) Determine the maximum cost per case mix unit for each peer group:
   a. The maximum cost per case mix unit for Peer Group 1 is $110.78.
   b. The maximum cost per case mix unit for Peer Group 2 is $115.99.
   c. The maximum cost per case mix unit for Peer Group 3 is equal to the cost per case mix unit of the provider at the 95th percentile of all providers in Peer Group 3 for the calendar year preceding the fiscal year in which the rate will be paid.

4) The allowable cost per case mix unit is the lesser of the facility cost per case mix unit or the maximum cost per case mix unit for the peer group.

5) Multiply the allowable cost per case mix unit by the annual average case mix score for the provider and then multiply the product by an inflation factor to determine the direct care per diem for the facility.
   a. For Peer Group 1 and 2 the inflation factor is 1.0140.
   b. For Peer Group 3 the inflation factor is 1.0247.

Calculation of Indirect Care Per Diem for Peer Groups 1, 2, and 3

An indirect care per diem rate is established for each intermediate care facility for individuals with intellectual disabilities except for those in Resident Assessment Classification groups 5N and 6N using allowable indirect care costs as reported by each facility in accordance with the following calculation:

1) Divide the allowable indirect care costs by the greater of the inpatient days reported on the same cost report or imputed occupancy.
   a. Imputed Occupancy is 85% of the total number of bed days available based on the number of certified beds for the facility
2) Multiply the result above by an inflation factor to determine the inflated indirect care costs per diem.
   a. For Peer Groups 1 and 2 the inflation factor is 1.0140.
   b. For Peer Group 3 the inflation factor is 1.0021.
3) Determine the maximum inflated indirect care cost per diem for each peer group:
   a. The maximum inflated indirect care cost per diem for Peer Group 1 is $68.98.
   b. The maximum inflated indirect care cost per diem for Peer Group 2 is $59.60.
   c. The maximum inflated indirect care cost per diem for Peer Group 3 shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem inflated indirect care cost for all providers in Peer Group 3 (excluding providers whose inflated indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem inflated indirect care cost for all providers in peer group 3) for the calendar year immediately preceding the fiscal year in which the rate will be paid.
4) Determine the maximum efficiency incentive for each peer group:
   a. The maximum efficiency incentive for Peer Group 1 is $3.69.
   b. The maximum efficiency incentive for Peer Group 2 is $3.19.
   c. The maximum efficiency incentive for Peer Group 3 is seven percent of the maximum inflated indirect care cost per diem.
5) The allowable indirect care per diem rate is:
   a. If the inflated indirect care cost per diem is higher than the maximum inflated indirect care cost per diem for the peer group, the indirect care per diem rate is equal to the maximum inflated indirect care cost per diem for the peer group.
   b. If the inflated indirect care cost per diem is lower than the maximum inflated indirect care cost per diem for the peer group, the indirect care cost per diem is equal to:
      i. The inflated indirect care cost per diem plus:
         1) For Peer Group 1 if the intermediate care facility for individuals with intellectual disabilities has obtained DODD's approval to downsize or convert to home and community based services at least 10% of their Medicaid certified bed capacity or 5 beds, whichever is fewer, an efficiency incentive equal to either the maximum efficiency incentive for the peer group or a reduced efficiency incentive if the maximum efficiency incentive would cause the indirect care per diem rate to be above the maximum inflated indirect care cost per diem for the peer group.
         2) For Peer Group 1 if the intermediate care facility for individuals with intellectual disabilities has not obtained DODD's approval to downsize or convert to home and

community based services at least 10% of their Medicaid certified bed capacity or 5 beds, whichever is fewer, an efficiency incentive equal to either one half of the maximum efficiency incentive for the peer group; or an efficiency incentive equal to one half of the reduced efficiency incentive if the maximum efficiency incentive would cause the indirect care per diem rate to be above the maximum inflated indirect care cost per diem for the peer group.

3) For Peer Group 2 and 3 an efficiency incentive equal to either the maximum efficiency incentive for the peer group or a reduced efficiency incentive if the maximum efficiency incentive would cause the indirect care per diem rate to be above the maximum inflated indirect care cost per diem for the peer group.

Calculation of Capital Per Diem for Peer Groups 1, 2, and 3

A capital per diem rate is established for each intermediate care facility for individuals with intellectual disabilities except for those in Resident Assessment Classification groups 5N and 6N using allowable capital costs as reported by each facility in accordance with the following calculation:

1) The capital per diem rate is the sum of the following:
    a. Cost of Ownership per diem
    b. Non-Extensive Renovations per diem
    c. Cost of Ownership efficiency incentive

The Cost of Ownership per diem is calculated by the following:

1) Divide the allowable cost of ownership costs as reported by each facility by the greater of the inpatient days reported on the same cost report or imputed occupancy.
    a. Imputed occupancy is 95% of the total number of bed days available based on the number of certified beds for the facility.
2) The cost of ownership per diem is the lower of the results of the calculation above or the cost of ownership ceilings which are set in accordance with Section 5124.17 of the Ohio Revised Code (effective July 1, 2016):
    a. For Peer Group 1, the ceiling ranges from $2.58 - $14.28 (then adjusted for inflation). The precise ceiling for each facility is determined in accordance with the above-reference statute, and is based on the original date of licensure of each bed in the facility and represents a weighted average of all beds in the facility.
    b. For Peer Groups 2 and 3, the ceiling is $18.32 (then adjusted for inflation).

Cost of ownership ceilings are adjusted for inflation based on amounts set in state statute for July 1, 1993, and inflated to the current year. The inflation factor used to adjust the capital portion of the rate is based on the consumer price index for shelter for all urban consumers for the Midwest region, as published by the United States bureau of labor statistics.

The Non-Extensive Renovations per diem is calculated by the following:

1) Divide the allowable non-extensive renovations costs as reported by each facility by the greater of the inpatient days reported on the same cost report or imputed occupancy
    a. Imputed occupancy is 95% of the total number of certified beds for the facility
2) The non-extensive renovations per diem is the lower of the result of the calculation in #1 above or the maximum non-extensive renovations per diem which is $8.08 (then adjusted for inflation in the same manner as the cost of ownership ceilings) set in accordance with Section 5124.17 of the Ohio Revised Code (effective July 1, 2016).

The Cost of Ownership Efficiency Incentive is calculated by the following:

1) For Peer Group 1 if the intermediate care facility for individuals with intellectual disabilities has obtained DODD's approval to downsize or convert to home and community based services at least 10% of their Medicaid certified bed capacity or 5 beds, whichever is fewer, twenty-five percent of the difference between the allowable cost of ownership calculation in #1 under Cost of Ownership per diem above and the inflated maximum cost of ownership per diem for the facility calculated in Cost of Ownership #2 above.
2) For Peer Group 1 if the intermediate care facility for individuals with intellectual disabilities has not obtained DODD's approval to downsize or convert to home and community based services at least 10% of their Medicaid certified bed capacity or 5 beds, whichever is fewer, twelve and a half percent of the difference between the allowable cost of ownership calculation in #1 under Cost of Ownership per diem above and the inflated maximum cost of ownership per diem for the facility calculated in Cost of Ownership #2 above.
3) For Peer Group 2 twenty-five percent of the difference between the allowable cost of ownership calculation in #1 under Cost of Ownership per diem above and the inflated maximum cost of ownership per diem for the facility calculated in Cost of Ownership #2 above.
    a. For Peer Group 2, the maximum cost of ownership efficiency incentive is $3.00 (then adjusted for inflation in the same manner as the cost of ownership ceilings) set in accordance with Section 5124.17 of the Ohio Revised Code (effective July 1, 2016).
4) For Peer Group 3, fifty percent of the difference between the allowable cost of ownership calculation in #1 under Cost of Ownership per diem above and the inflated maximum cost of ownership per diem for the facility calculated in Cost of Ownership #2 above.
    a. For Peer Group 3, the maximum cost of ownership efficiency incentive is $3.00 (then adjusted for inflation in the same manner as the cost of ownership ceilings) set in accordance with Section 5124.17 of the Ohio Revised Code (effective July 1, 2016).

The total capital per diem rate for a facility in Peer Group 2 or Peer Group 3 cannot exceed the sum of the maximum amounts for the Cost of Ownership per diem and the Non-Extensive Renovations per diem as described above.

Calculation of Other Protected Per Diem for Peer Groups 1, 2, and 3

Another protected per diem rate is established for each intermediate care facility for individuals with intellectual disabilities except for those in Resident Assessment Classification groups 5N and 6N using allowable other protected costs as reported by each facility in accordance with the following calculation:

1) Subtract allowable franchise permit fee costs from the total allowable other protected costs;
2) Divide the amount in #1 above by the total inpatient days reported on the same cost report for the facility to determine the other protected costs per diem;
3) For Peer Groups 1 and 2, multiply the other protected costs per diem by an inflation factor which is 1.0140;
4) For Peer Group 3, multiply the other protected costs per diem by an inflation factor which is 0.9776;
5) Add Medicaid's portion of the franchise permit fee per diem rate to determine the other protected costs per diem rate.

Franchise Permit Fee

The State assesses all providers of Intermediate care facility services for individuals with intellectual disabilities a franchise permit fee based on the provider's certified bed count. The franchise permit fee is calculated using projected net patient revenue and bed counts for the provider class, in accordance with the Indirect Guarantee Percentage as defined in federal regulations (section 1903(w)(4)(C)(ii) of the Social Security Act, 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii), as amended). The amount of the franchise fee is $18.02 per bed per day.

New Facility in Peer Group 1 or 2

The initial rate for a facility with a first date of licensure or Medicaid certification after June 30, 2006, including a facility that replaces one or more existing facilities shall be calculated as follows:

1) The direct care rate component shall be calculated as follows:
    a. If there is no cost or resident assessment data available, the rate shall be the median cost per case-mix unit calculated for standard rates (as calculated in the direct care section of this Attachment) multiplied by the median annual average case-mix score for the peer group for that period and by the rate of inflation estimated for standard rates.
    b. If the facility is a replacement facility and the facility or facilities being replaced are in operation immediately before the replacement facility opens, the rate shall be the same as the rate for the replaced facility or facilities, proportionate to the number of beds in each replaced facility.
2) The rate for indirect care costs shall be the maximum rate for the facility's peer group as calculated for the standard rates.
3) The rate for capital costs shall be the median of all standard capital rates (as calculated in the capital section of this Attachment).
4) The rate for other protected costs shall be 115 percent of the median rate for intermediate care facilities for individuals with intellectual disabilities calculated for the standard rates (as calculated in the other protected section of this Attachment) and shall include the franchise permit fee rate if the beds were subject to the franchise permit fee during the fiscal year.
5) The rate for the direct support personnel payment shall be the median rate value of the direct support personnel payment rates calculated in that section of this Attachment.
6) The rates calculated above will be adjusted effective the first date of July, to reflect new rate calculations for standard rates

Direct Support Personnel Payment

Each intermediate care facility in Peer Groups 1 and 2 shall receive a direct support personnel payment equal to 3.04% of the provider's allowable direct care per diem costs.

Rate Adjustments

1) If the mean total per diem rate for all ICFs-IID in Peer Groups 1 and 2 and active on July 1, 2016, weighted by May 2016 Medicaid days is other than $290.10, for fiscal year 2017, the total per diem rate for each ICF-IID is adjusted by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than $290.10. The mean total per diem rate for state fiscal year 2017 resulted in a (0%) adjustment.
2) An intermediate care facility for individuals with intellectual disabilities may request a reconsideration of a rate on the basis of an extreme hardship on the facility as follows:
    1. Upon direct admission of a resident from a state-operated developmental center to the intermediate care facility.

If a rate adjustment is granted, the adjustment shall be implemented the first day of the first month the former resident of the developmental center resides in the intermediate care facility. The rate adjustment shall be time-limited to no longer than twelve consecutive months, but the adjustment shall be rescinded should the admitted resident permanently leave the intermediate care facility for any reason.

The maximum amount available for each admitted former resident of a state-operated developmental center shall be no more than fifty dollars per day prorated for the number of filled beds in the facility.

Capacity reductions

If an ICF-IID permanently reduces the facility's certified capacity by a minimum of either 5 ICF-IID beds or 10% of the total beds of the ICF-IID, the ICF-IID is eligible for a recalculation of the per diem rate.

1) The ICF-IID will submit a cost report for the first 3 full months following the permanent reduction of capacity.
2) The 3 month cost report will be used to recalculate the facility's total rate including:
   a. Direct Care - as calculated in the direct care section of this Attachment except for the following:
      i. In place of the annual average case mix score otherwise used in determining the ICF/IID's per Medicaid day payment rate for direct care costs in paragraph 2 of page 6, the ICF/IID's case mix score in effect on the last day of the calendar quarter that ends during the period the cost report covers (or, if more than one calendar quarter ends during that period, the last of those calendar quarters) shall be used to determine the ICF/IID's per Medicaid day payment rate for direct care costs.
   b. Indirect Care - as calculated in the indirect care section of this Attachment
   c. Capital - as calculated in the capital section of this Attachment except for the following:
      i. The ICF/IID shall not be subject to the limit on the costs of ownership per diem payment rate or non-extensive renovations specified in page 10.
      ii. The ICF/IID shall be subject to the limit on the total payment rate for costs of ownership, capitalized costs of non-extensive renovations, and the efficiency incentive specified in page 11 regardless of whether the ICF/IID is in peer group 1 or peer group 2.
   d. Other protected - as calculated in the other protected section of this Attachment

If a new ICF-IID is the result of an ICF-IID that permanently reduced the facility's certified capacity by a minimum of either 5 beds or 10% of the total beds of the ICF-IID, the new ICF-IID is eligible for a recalculation of the per diem rate.

1) The new ICF-IID will submit a cost report for the first 3 full months following the certification.
2) The 3 month cost report will be used to recalculate the facility's total rate including:
   a. Direct Care - as calculated in the direct care section of this Attachment except for the following:
      i. In place of the annual average case mix score otherwise used in determining the ICF/IID's per Medicaid day payment rate for direct care costs in paragraph 2 of page 6, the ICF/IID's case mix score in effect on the last day of the calendar quarter that ends during the period the cost report covers (or, if more than one calendar quarter ends during that period, the last of those calendar quarters) shall be used to determine the ICF/IID's per Medicaid day payment rate for direct care costs.
   b. Indirect Care - as calculated in the indirect care section of this Attachment
   c. Capital - as calculated in the capital section of this Attachment
   d. Other protected - as calculated in the other protected section of this Attachment

Outlier

An outlier is a facility or unit in a facility serving residents with diagnoses or special care needs that require direct care resources not measured adequately by the Individual Assessment Form or who serve residents with special care needs otherwise qualifying for consideration. An outlier rate is a contracted rate and may differ from standard rates.

1) For the Pediatric Ventilator Services outlier, the State provides an add-on payment of $300 per day for each individual authorized to receive pediatric ventilator services in the facility.

Individuals must receive prior approval from the Department of Developmental Disabilities for outlier services.

Coverage and Payment for Bed Hold Days

ICF-IID providers are eligible for payment to reserve a bed for a resident who is away from the facility for hospital leave, visits with friends and family, therapeutic leave, and trial visits to home and community based settings. Up to 30 days are granted automatically per calendar year per resident. Any requests beyond 30 days require prior approval from DODD except for emergency hospital stays which must be requested within one business day of the start of the leave period. Payment for all allowable bed hold days is equal to one hundred percent of the provider's per diem rate.

Coverage and Payment for short term respite stays

ICF-IID providers are eligible for payment for an individual on a home and community based waiver to temporarily reside in the facility for up to 90 days in a calendar year. The ICF-IID provider shall be paid at the per diem rate for any individual residing in a Medicaid certified ICF-IID bed. Payment for the individual shall cease after 90 days in the calendar year unless the individual disenrolls from the home and community based waiver and becomes a permanent resident of the ICF-IID facility.