

## **Table of Contents**

**State/Territory Name: OH**

**State Plan Amendment (SPA) #: 18-004**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

Barbara Sears, Director  
Ohio Department of Medicaid  
P.O. Box 182709  
50 West Town Street, Suite 400  
Columbus, Ohio 43218

MAR 13 2018

RE: Ohio State Plan Amendment (SPA) 18-004

Dear Ms. Sears:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 18-004. Effective January 1, 2018, this State Plan Amendment updates NF and 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 18-004 is approved effective January 1, 2018. 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](mailto:Fredrick.sebree@cms.hhs.gov).

Sincerely,



Kristin Fan,  
Director

Enclosure

<b>3. TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>18-004</b>	2. STATE <b>OHIO</b>
<b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		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 <b>January 1, 2018</b>	
5. TYPE OF PLAN MATERIAL (Check One):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> <b>AMENDMENT</b>			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Sections 1905(a)(4)(A) and (a)(15) of the Social Security Act 42 CFR 440.40 and 440.150		7. FEDERAL BUDGET IMPACT: a. FFY 2018    \$0 b. FFY 2019    \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Attachment 4.28-A, Sec. 001.1, Page 1 of 1 Attachment 4.28-A, Sec. 001.2, Pages 1-2 of 2		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  Attachment 4.28, Sec. 001.01, Page 1 of 1 (TN 14-023) Attachment 4.28A, 5101:3-3-04.1, Pages 1-4 of 4 (TN 08-005)	
10. SUBJECT OF AMENDMENT: NF and ICF/IID Services: Administrative Appeals			
11. GOVERNOR'S REVIEW (Check One):			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		<input checked="" type="checkbox"/> <b>OTHER, AS SPECIFIED:</b> The State Medicaid Director is the Governor's designee	
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Carolyn Humphrey Ohio Department of Medicaid P.O. BOX 182709 Columbus, Ohio 43218	
13. TYPED NAME: <b>BARBARA R. SEARS</b>			
14. TITLE: <b>STATE MEDICAID DIRECTOR</b>			
15. DATE SUBMITTED: <b>January 25, 2018</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED: <b>MAR 13 2018</b>	
<b>PLAN APPROVED - ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>JAN 01 2018</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <b>Kristin Fan</b>		22. TITLE: <b>Director, FMCA</b>	
23. REMARKS:			

Instructions on Back

**Payment During Appeal for Termination or Non-Revalidation of a Provider Agreement**

Payment shall continue for Medicaid-covered services provided to eligible residents during the appeal of, and the proposed termination or non-revalidation of, a nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF-IID) provider agreement when the Department of Medicaid is required to provide an adjudicatory hearing. Payment shall not be made under this provision for services rendered on or after the effective date of the Department's issuance of a final order of adjudication, except as provided in the following paragraph.

Payment may be provided up to thirty days following the effective date of termination or non-revalidation of a nursing facility or ICF-IID provider agreement, or after an administrative hearing decision that upholds the Department's termination or non-revalidation action. Payment will be available if both of the following conditions are met:

- 1) Residents were admitted to the nursing facility or ICF-IID before the effective date of termination or expiration.
- 2) The nursing facility or ICF-IID cooperates with the efforts of state, local, and federal entities to transfer residents to other nursing facilities, ICFs-IID, institutions, or community programs that can meet the residents' needs.

When the Department acts under instructions from the United States Department of Health and Human Services, payment ends on the termination date specified by that agency.

MAR 13 2018

TN 18-004 Approval Date \_\_\_\_\_

Supersedes

TN 14-023 Effective Date 1/1/2018

**Payment During Appeal for Termination or Non-Renewal of Medicaid Certification**

When Medicaid certification is either terminated or not renewed, the Department of Medicaid (Department) also must either terminate or not revalidate the Medicaid provider agreement.

The following requirements are specific to nursing facilities:

- 1) Payment is available for covered services provided to eligible residents during the appeals process provided by the state survey agency for the proposed termination or non-renewal of a nursing facility's Medicaid certification if both of the following conditions are met:
  - a) Payment is for those residents admitted prior to the effective date of the order that denied Medicaid payments to the facility for all Medicaid eligible residents admitted after the effective date of the order.
  - b) The appeal is conducted prior to the effective date of termination or non-renewal.
- 2) If the appeals process results in an adjudication order that upholds the state survey agency action, or if the administrative hearing is not completed prior to the certification termination or non-renewal date, payment for services provided to eligible residents may be available for an additional 30 days if both of the following conditions are met:
  - a) The eligible resident was admitted prior to the effective date of the order that denied Medicaid payments to the facility for all Medicaid eligible residents admitted after the effective date of the order.
  - b) The nursing facility cooperates with the state, local, and federal entities in efforts to transfer residents to other nursing facilities, institutions, or community programs that can meet the residents' needs.
- 3) If a nursing facility's appeal of the termination or non-renewal of its certification is upheld, payment for covered services provided to eligible residents is resumed. If the appeal decision is reached after the termination or non-renewal date, payment is made retroactive to the date of termination.

The following requirements are specific to intermediate care facilities for individuals with intellectual disabilities (ICFs-IID):

- 1) In addition to or in conjunction with the appeals process, the ICF-IID may request an informal reconsideration.
  - a) If the informal reconsideration results in an affirmation of the original survey findings, the appeals process moves forward to the administrative hearing if one was requested.
  - b) If the informal reconsideration results in a reversal of the original survey findings, the state survey agency's termination or non-renewal action, based on those original findings, is dismissed.
- 2) During the appeals process provided by the state survey agency for the proposed termination or non-renewal of Medicaid certification for an ICF-IID, payment under regulations for covered services provided to eligible residents shall continue through the earlier of the following:
  - a) The date of issuance of a final order of adjudication that upholds the state survey agency's termination or non-renewal action.
  - b) The 120<sup>th</sup> day after the effective date of termination of the ICF-IID's provider agreement; or if the ICF-IID provider agreement is not terminated, the 120<sup>th</sup> day after the effective date of expiration as specified in the provider agreement.

- 3) Payment may be provided up to an additional 30 days following either the cessation of payment on the 120<sup>th</sup> day post-termination or non-renewal date, or after the issuance of an adjudication order that upholds the state survey agency's termination or non-renewal action. Payment will be available if both of the following conditions are met:
  - a) Payment is for residents admitted to the ICF-IID before the effective date of termination or non-renewal.
  - b) The ICF-IID cooperates with the efforts of local, state, and federal entities to transfer residents to other ICFs-IID, institutions, or community programs that can meet the residents' needs.

The following apply to both nursing facilities and ICFs-IID:

- 1) When the state survey agency certifies there is jeopardy to residents' health and safety, or when it fails to certify there is no jeopardy, payment will end on the effective date of termination, or in the case of an ICF-IID, if it is earlier, the expiration of the provider agreement.
- 2) When the Department acts under instructions from the United States Department of Health and Human Services (HHS), payment ends on the date specified by HHS.