



## Long-Term Care Regulatory Provider Letter

**Number:** PL 2021-38 *Replaces PL 19-21*

**Title:** Medicaid Bed Reallocation

**Provider Type:** Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID)

**Date Issued:** November 19, 2021

### 1.0 Subject and Purpose

The Executive Commissioner of the Health and Human Services Commission (HHSC) adopted a new rule, §261.220, Medicaid Bed Reallocation, in Texas Administrative Code, Title 26 (26 TAC). The new rule took effect November 8, 2021 and allows any person to request reallocated ICF/IID Medicaid beds from HHSC. This provider letter explains the process for making such a request.

### 2.0 Policy Details & Provider Responsibilities

If an ICF/IID closes, the program provider that operated the ICF/IID may request that the ICF/IID's certified capacity, also referred to as its Medicaid beds, be suspended for up to one year<sup>1</sup>. If the certified capacity was not suspended or the suspended capacity is not activated, the capacity reverts to the control of HHSC. HHSC may determine that capacity that has reverted to its control is available for reallocation in accordance with new 26 TAC §261.220.

#### 2.1 Application

An applicant is a person who requests reallocated Medicaid beds and may be any person.

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<sup>1</sup> 26 TAC §261.218

To request reallocated ICF/IID Medicaid beds, a person must email a completed HHSC Form 3642, ICF/IID Medicaid Bed Reallocation Application, and the documentation described in this letter to [Medicaid\\_Bed\\_Allocation@hhs.texas.gov](mailto:Medicaid_Bed_Allocation@hhs.texas.gov). An applicant may request no more than six reallocated Medicaid beds for each facility.

## **2.2 Review**

If HHSC determines that ICF/IID Medicaid beds are available to reallocate, HHSC will review applications in the order HHSC received them.

When HHSC reviews an application, it determines if an applicant is ready to immediately use requested Medicaid beds and has demonstrated a need for the beds. If the applicant is a current program provider, HHSC also determines if the applicant has an acceptable regulatory compliance history with HHSC. If HHSC determines that an applicant meets those criteria, HHSC approves the application and grants the number of beds requested, up to six beds for each facility.

### **2.2.1 Regulatory Compliance History**

HHSC considers the regulatory compliance history of an applicant. An acceptable compliance history means that, during the 24 months immediately preceding HHSC's review, the applicant and any controlling persons of the applicant meet the criteria in 26 TAC §261.220(i).

### **2.2.2 Demonstrated Need**

An applicant must submit documentation that demonstrates a need for the requested beds with its application. The documentation must include:

- data demonstrating occupancy rates in ICF/IIDs operated by the applicant of 80 percent or greater for nine of the 12 months immediately preceding the date of the application, if the applicant is a current ICF/IID program provider; and
- a wait list, which may be evidenced by letters from individuals or family members attesting they want to receive ICF/IID services from the applicant.

An applicant may submit any other documentation showing a need for the requested beds.

### **2.3 Approval**

If HHSC approves an application, HHSC sends an approval letter to the applicant. The applicant must submit an "initial application" in the Texas Unified Licensure Information Portal (TULIP) within 30 days after the date of HHSC's approval letter. In TULIP, the applicant must select the available option of "initial licensure application."

### **2.4 Revocation**

If an applicant does not timely submit an initial licensure application or does not complete the Medicaid provider enrollment process in accordance with HHSC rules, or HHSC denies the licensure application, HHSC revokes approval of the reallocation application and reviews the next application as described in Section 2.2 of this letter.

### **2.5 Denial**

If an applicant does not meet the criteria in 26 TAC §261.220 for reallocated ICF/IID Medicaid beds, HHSC sends a denial letter to the applicant.

### **2.6 Waiting List**

When HHSC has reallocated all available beds, HHSC places any applicants who did not receive reallocated beds on a waiting list. When beds become available for reallocation, HHSC reviews applications as described in Section 2.2 of this letter.

## **3.0 Background/History**

Texas Health and Safety Code §533A.062(b-1), added by House Bill 3117, 86th Legislature, Regular Session, 2019, requires HHSC to develop a process to reallocate certain ICF/IID Medicaid beds as part of the proposed Long-Term Care Plan for Individuals with Intellectual Disabilities and Related Conditions.

The Executive Commissioner of HHSC adopted 26 TAC §261.220 based on the authority in §533A.062(b-1).

#### **4.0 Resources**

[ICF/IID Medicaid Bed Reallocation Application \(Form 3642\)](#)  
[HB 3117, 86th Legislature, Regular Session, 2019](#)  
[Texas Health and Safety Code §533A.062](#)

#### **5.0 Contact Information**

If you have any questions about this letter, please contact the LTCR Policy and Rules Section by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.