

Virginia Department of Health Office of Licensure and Certification

Intermediate Care Facility for the Mentally Retarded

Background

The Social Security Act mandates the establishment of minimum health and safety standards that must be met by providers and suppliers participating in the Medicare and Medicaid programs. The Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) provider category is a Medicaid only program.

An ICF/MR is a facility, of no less than four (4) beds, that meets Federal Conditions of Participation and has as its primary purpose the provision of health or rehabilitation services to individuals with mental retardation or related conditions receiving care services under the Medicaid program. Neither the law nor Federal regulations define or require ICF/MR services in terms of distinct parts. However, as a State Medicaid program requirement, States may provide for distinct part ICF/MR approvals. Where the State Medicaid Agency (SMA) elects to define the ICF/MR program in distinct parts, these additional Federal provisions must be met:

- ◆ The distinct part must be a clearly identified unit, such as an entire ward, wing, floor, building, or a number of designated rooms,
- ◆ The distinct part consists of all beds and related facilities in the unit, and
- ◆ The institution may not require transfer of patients or individuals to or from the distinct part, where, in the opinion of the attending physician, transfer might be harmful to the physical or mental health of the patient or individual, but otherwise, the unit houses all ICF/MR residents in the institution,

The Virginia Department of Mental Health/Mental Retardation/Substance Abuse Services is the state agency responsible for operating or licensing Intermediate Care Facilities for the Mentally Retarded in Virginia. Licensure by DMH/MR/SAS is a prerequisite for a community based group home to become certified as an ICF/MR.

The Virginia Department of Health (VDH) through the Office of Licensure and Certification (OLC) is the state survey agency (SA) responsible for assessing compliance with federal ICF/MR program participation requirements. VDH contracts with the Virginia Department of Fire Program's State Fire Marshal's Office (SFMO) to determine compliance with the federal Life Safety Code requirements. Upon the provider's demonstration of compliance with both the federal ICF/MR and Life Safety Code requirements, a federal certification number is issued by OLC and the certification package is forwarded to the Virginia Department of Medical Assistance Services (DMAS) with a recommendation for Medicaid participation. DMAS will enter into a Time Limited Agreement with the provider and issue a vendor number that is used for billing purposes. **Note:** *The group home should contact DMAS to inquire about obtaining a copy of their Medicaid Manual and/or any specific reimbursement issues.* Following the initial certification procedure, the provider can expect annual recertification surveys by OLC and SFMO.

Initial Certification Preparation

If a facility has been fully operational as a licensed group home, or a distinct part that was never certified because of physical plant limitations yet it provided treatment comparable to that required by a certified

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ICF/MR, then it may request the SA to review relevant aspects of its existing immediate track record as part of the initial survey process. The following steps are necessary:

- Extent of program:
 - If the group home will have 13 or more beds, the group home needs to contact the VDH, OLC, Division of Certificate of Public Need (DCOPN) and follow their guidance to meet the applicable requirements. If a COPN is necessary, initial ICF/MR certification may only proceed after the authorizing COPN has been issued.
 - The Code of Virginia no longer requires a certificate of public need (COPN) for an ICF/MR that has no more than twelve beds and is to be located in an area identified as in need of residential services for people with mental retardation in any plan of the Department of Mental Health, Mental Retardation and Substance Abuse Services. (VA Code §32.1-102.1"Medical Care Facility.") Please provide the Division of Certificate of Public Need (DCOPN) with evidence the proposed facility's location is included in such a plan and meets the second half of the requirement for exemption. The DCOPN will determine if a COPN will be required for the requested facility.
- A prospective ICF/MR provider must forward an "expressed interest" notification to OLC's Director, Division of Long Term Care. The notice should include both the number of beds and the planned location of the facility.
- The Division Director will:
 - forward the group home a letter containing the necessary federal forms that must be completed and returned,
 - contact the State Fire Marshal's Office to request and authorize one final Life Safety Code Survey¹ and
 - assign a Division of LTC Supervisor to work with the group home to complete the initial certification review process.
- The Supervisor will make arrangements with the group home for the necessary administrative paperwork (policies and procedures, contracts, personnel, inservice training, etc) to be forwarded to OLC for review and approval. **Note:** *If parent organization is known to VDH/OLC/LTC and has current certified facilities, pre-survey review is limited to new facility specifics. If parent organization not known to VDH/OLC/LTC pre-survey review is comprehensive.*
- Following the approval of the above mentioned information and a determination of compliance with the Life Safety Code requirements, the facility must forward a written request for the initial onsite program survey. Receipt of this notification illustrates the facility's readiness to demonstrate compliance. **Note:** *There is no specific number of days that an ICF/MR must be operational prior to its initial onsite program survey, but in most cases approximately 30-35 days would be a general safety measure in*

¹ If interested, a prospective ICF/MR provider may contact the State Fire Marshal's Office to determine feasibility of contracting for preliminary onsite review to assess the structure will meet the requirements during the final Life Safety Code survey.

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order to be able to demonstrate compliance with all program requirements. Should the facility wish to have the initial certification program survey prior to being fully operational for 30-35 days, it must identify the date by which it will be able to demonstrate compliance with 42 CFR Part 483.440(a) for each of its clients.

- An unannounced onsite initial certification survey will be conducted by surveyors federally trained and qualified in ICF/MR certification.
- If a facility does not successfully demonstrate compliance during an onsite survey:
 - The facility must take necessary actions to resolve and/or correct those issues which negatively impacted the onsite survey outcome and, upon completion,
 - Forward a notification of readiness to demonstrate compliance with the applicable requirements and request an onsite initial survey.
 - A second unannounced onsite initial certification survey will be scheduled based on qualified surveyor availability.
- If all requirements are met, and no deficiencies are cited, the effective date of certification will be the last day of the survey. *Note: There is no avenue for retroactive Medicaid reimbursement for services offered prior to the effective date of certification. The effective date of certification is determined by the outcome of initial certification surveys.*