

As Passed by the House

134th General Assembly

Regular Session

2021-2022

Am. Sub. S. B. No. 239

Senator Blessing

**Cosponsors: Senators Roegner, Lang, Kunze, Romanchuk, Johnson, Antonio, Cirino, Gavarone, Hackett, Manning, Reineke, Rulli, Thomas, Wilson, Yuko
Representatives Wiggam, Callender, Carruthers, Fraizer, Grendell, Gross, Hillyer, Jones, LaRe, Loychik, Seitz, White**

A BILL

To enact sections 5103.57, 5103.58, and 5103.59 of
the Revised Code and to amend Section 261.150 of
H.B. 110 of the 134th General Assembly regarding
qualifications for professional treatment staff,
regarding the fiscal year 2023 payment rates for
intermediate care facilities for individuals
with intellectual disabilities, and to make an
appropriation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5103.57, 5103.58, and 5103.59 of
the Revised Code be enacted to read as follows:

Sec. 5103.57. As used in sections 5103.58 and 5103.59 of
the Revised Code:

(A) "Professional treatment staff" means a specialized
foster home program agency employee or contractor with
responsibility for any of the following:

(1) Providing rehabilitative services to a child placed in

a specialized foster home program or to the child's family; 17

(2) Conducting home studies as an assessor for specialized 18
foster homes; 19

(3) Providing clinical direction to specialized foster 20
caregivers; 21

(4) Supervision of treatment team leaders. 22

(B) "Specialized foster home" has the same meaning as in 23
section 5103.02 of the Revised Code. 24

Sec. 5103.58. (A) Professional treatment staff employed by 25
a public children services agency who are not subject to the 26
licensing requirements of Chapter 4757. of the Revised Code 27
shall meet the requirements of sections 5153.112 and 5153.122 of 28
the Revised Code. 29

(B) (1) Professional treatment staff employed by a private 30
child placing agency or private noncustodial agency who are not 31
subject to the licensing requirements of Chapter 4757. of the 32
Revised Code shall meet the requirements of: 33

(a) Section 5153.112 of the Revised Code; and 34

(b) Section 5153.122 of the Revised Code, except that, 35
with respect to the training requirements during the first year 36
of continuous employment, staff shall be required to have 37
training only in the courses described in divisions (A), (B), 38
(C), (G), (H), (J), and (L) of that section and only for the 39
number of hours needed to complete those courses. 40

(2) Subject to divisions (B) (3) and (4) of this section, 41
the training required under division (B) (1) of this section may 42
be offered by a private child placing agency, private 43
noncustodial agency, or qualified nonprofit organization. 44

(3) Prior to the department of job and family services 45
establishing a training program under section 5103.59 of the 46
Revised Code, training that meets the requirements described in 47
division (B)(1) of this section may be offered only upon 48
approval by the department. The department shall approve or 49
disapprove a program not later than sixty days after the program 50
is submitted for approval. 51

(4) A private child placing agency, private noncustodial 52
agency, or qualified nonprofit organization shall cease to 53
provide a training program approved under division (B)(3) of 54
this section once the department establishes a training program 55
described in section 5103.59 of the Revised Code, after which 56
all training shall be provided by the department only. 57

Sec. 5103.59. The department of job and family services 58
shall work with private child placing agencies and private 59
noncustodial agencies to establish a comprehensive, competency- 60
based professional treatment staff training program for 61
employees of private child placing agencies and private 62
noncustodial agencies that meets the requirements of division 63
(B)(1) of section 5103.58 of the Revised Code. 64

Section 2. That Section 261.150 of H.B. 110 of the 134th 65
General Assembly be amended to read as follows: 66

Sec. 261.150. FISCAL YEAR 2022 and 2023 ICF/IID MEDICAID 67
RATES FOR PEER GROUPS 1, 2, 3, 4, AND 5 68

(A) As used in this section: 69

(1) "Change of operator," "entering operator," "exiting 70
operator," "ICF/IID," "ICF/IID services," "Medicaid days," "peer 71
group 1," "peer group 2," "peer group 3," "peer group 4," "peer 72
group 5," "provider," and "provider agreement" have the same 73

meanings as in section 5124.01 of the Revised Code. 74

(2) "Franchise permit fee" means the fee imposed by 75
sections 5168.60 to 5168.71 of the Revised Code. 76

(B) (1) This section applies to each ICF/IID that is in 77
peer group 1, peer group 2, peer group 3, peer group 4, or peer 78
group 5 and to which any of the following, as applicable to a 79
fiscal year, applies: 80

(a) In the context of determining an ICF/IID's total 81
Medicaid payment rate for fiscal year 2022, any of the following 82
is the case: 83

(i) The provider of the ICF/IID has a valid Medicaid 84
provider agreement for the ICF/IID on June 30, 2021, and a valid 85
Medicaid provider agreement for the ICF/IID during fiscal year 86
2022. 87

(ii) The ICF/IID undergoes a change of operator that takes 88
effect during fiscal year 2022, the existing operator has a 89
valid Medicaid provider agreement for the ICF/IID on the day 90
immediately preceding the effective date of the change of 91
operator, and the entering operator has a valid Medicaid 92
provider agreement for the ICF/IID during fiscal year 2022. 93

(iii) The ICF/IID is a new ICF/IID for which the provider 94
obtains an initial provider agreement during fiscal year 2022. 95

(b) In the context of determining an ICF/IID's total 96
Medicaid payment rate for fiscal year 2023, any of the following 97
is the case: 98

(i) The provider of the ICF/IID has a valid Medicaid 99
provider agreement for the ICF/IID on June 30, 2022, and a valid 100
Medicaid provider agreement for the ICF/IID during fiscal year 101

2023. 102

(ii) The ICF/IID undergoes a change of operator that takes 103
effect during fiscal year 2023, the existing operator has a 104
valid Medicaid provider agreement for the ICF/IID on the day 105
immediately preceding the effective date of the change of 106
operator, and the entering operator has a valid Medicaid 107
provider agreement for the ICF/IID during fiscal year 2023. 108

(iii) The ICF/IID is a new ICF/IID for which the provider 109
obtains an initial provider agreement during fiscal year 2023. 110

(2) Notwithstanding Chapter 5124. of the Revised Code, the 111
Department of Developmental Disabilities shall follow this 112
section in determining the rate to be paid for ICF/IID services 113
provided during fiscal years 2022 and 2023 by ICFs/IID subject 114
to this section. 115

(C) (1) For fiscal year 2022, the Department shall pay the 116
following rates for ICF/IID services: 117

(a) For each ICF/IID described in division (B) (1) (a) (i) of 118
this section, the total per Medicaid day rate in effect for the 119
ICF/IID on June 30, 2021, increased by two per cent; 120

(b) For each ICF/IID described in division (B) (1) (a) (ii) 121
of this section, the total per Medicaid day rate in effect for 122
the ICF/IID on the day immediately preceding the effective date 123
of the change of operator; 124

(c) For each ICF/IID described in division (B) (1) (a) (iii) 125
of this section, a total per Medicaid day rate of \$357.89. 126

~~(2) If the mean total per Medicaid day rate for all 127
ICFs/IID to which the section applies, as determined under 128
division (B) (1) (b) of this section, as of July 1, 2022, and 129~~

~~weighted by May Medicaid days from calendar year 2022, is~~ 130
~~greater than \$365.05, the Department shall adjust, for fiscal~~ 131
~~year 2023, the total per Medicaid day rate for each ICF/IID to~~ 132
~~which this section applies by the percentage by which the mean~~ 133
~~total per Medicaid day rate is greater than \$365.05~~ 134
For fiscal 135
year 2023, the Department shall pay each ICF/IID a rate as 135
determined under Chapter 5124. of the Revised Code. 136

(D) If the United States Centers for Medicare and Medicaid 137
Services requires that the franchise permit fee be reduced or 138
eliminated, the Department shall reduce the amount it pays 139
ICF/IID providers under this section as necessary to reflect the 140
loss to the state of the revenue and federal financial 141
participation generated from the franchise permit fee. 142

(E) Of the foregoing appropriation items 653407, Medicaid 143
Services, 653606, ICF/IID and Waiver Match, and 653654, Medicaid 144
Services, portions shall be used to pay the Medicaid payment 145
rates determined in accordance with this section for ICF/IID 146
services provided during fiscal years 2022 and 2023. 147

(F) For fiscal year 2023, of the foregoing appropriation 148
item 653654, Medicaid Services, due to the continuation of the 149
enhanced federal medical assistance percentage enacted in 150
Section 6008 of the "Families First Coronavirus Response Act," 151
Pub. L. No. 116-127, up to \$10,000,000 state share, and the 152
corresponding federal share, shall be used to pay the Medicaid 153
payment rates determined in accordance with this section for 154
ICF/IID services provided during fiscal year 2023. 155

Section 3. That existing Section 261.150 of H.B. 110 of 156
the 134th General Assembly is hereby repealed. 157