

TITLE 56
PUBLIC ASSISTANCE AND WELFARE

CHAPTER 16
IDAHO INTERMEDIATE CARE FACILITY ASSESSMENT ACT

56-1601. SHORT TITLE -- LEGISLATIVE INTENT. (1) This chapter shall be known and may be cited as the "Idaho Intermediate Care Facility Assessment Act."

(2) It is the intent of the legislature to encourage the maximization of financial resources eligible and available for medicaid services by establishing a fund within the Idaho department of health and welfare to receive ICF assessments to be used in securing federal matching funds under federally prescribed programs available through the state medicaid plan.

[56-1601, added 2011, ch. 164, sec. 24, p. 479.]

56-1602. DEFINITIONS. As used in this chapter:

(1) "CMS" means the centers for medicare and medicaid services.
(2) "Department" means the Idaho department of health and welfare.
(3) "Fiscal year" means the time period from July 1 to June 30.
(4) "Fund" means the ICF assessment fund established pursuant to section 56-1603, Idaho Code.

(5) "ICF" means an intermediate care facility for people with intellectual disabilities as defined in section [39-1301](#), Idaho Code, and licensed pursuant to [chapter 13, title 39](#), Idaho Code.

(6) "Net patient service revenue" means gross revenues from services provided to ICF patients, less reductions from gross revenue resulting from an inability to collect payment of charges. Patient service revenue excludes nonpatient care revenues such as beauty and barber, vending income, interest and contributions, revenues from sale of meals and all outpatient revenues. Reductions from gross revenue includes: bad debts; contractual adjustments; uncompensated care; administrative, courtesy and policy discounts and adjustments; and other such revenue deductions.

(7) "Resident day" means a calendar day of care provided to an ICF resident, including the day of admission and excluding the day of discharge, provided that one (1) resident day shall be deemed to exist when admission and discharge occur on the same day.

(8) "Upper payment limit" means the limitation established in 42 CFR section 447.272, that disallows federal matching funds when state medicaid agencies pay certain classes of facilities an aggregate amount for services that exceed the amount that is paid for the same services furnished by that class of facilities under medicare payment principles.

[56-1602, added 2011, ch. 164, sec. 24, p. 479.]

56-1603. INTERMEDIATE CARE FACILITY ASSESSMENT FUND. (1) There is hereby created in the office of the state treasurer a dedicated fund to be known as the ICF assessment fund to be administered by the department. The state treasurer shall invest idle moneys in the fund, and any interest received on those investments shall be returned to the fund.

(2) Moneys in the fund shall consist of:

(a) All moneys collected or received by the department from ICF assessments required pursuant to this chapter;

(b) All federal matching funds received by the department as a result of expenditures made by the department that are attributable to moneys deposited in the fund;

(c) Any interest or penalties levied in conjunction with the administration of this chapter; and

(d) Any appropriation or federal funds.

(3) The fund is created for the purpose of receiving moneys in accordance with the provisions of this section and section [56-1604](#), Idaho Code. The fund shall not be used to replace any moneys appropriated to the Idaho medical assistance program by the legislature. Moneys in the fund, which are deemed to be perpetually appropriated, shall be used exclusively for the following purposes:

(a) To pay administrative expenses incurred by the department or its agent in performing the activities authorized pursuant to this chapter, provided that such expenses shall not exceed a total of one percent (1%) of the aggregate assessment funds collected for the prior fiscal year.

(b) To reimburse the medicaid share of the assessment as a pass-through.

(c) To secure federal matching funds available through the state medicaid plan, which funds shall be used to make medicaid payments for ICF services that equal or exceed the amount of ICF medicaid rates, in the aggregate, as calculated in accordance with the approved state medicaid plan in effect on July 1, 2011.

(d) To increase ICF payments to fund covered services to medicaid beneficiaries within medicare upper payment limits.

(e) To make refunds to ICFs pursuant to section [56-1607](#), Idaho Code. If an ICF is unable to refund payments, the state shall develop a payment plan and deduct moneys from future medicaid payments. The state will refund the federal government for the federal share of these overpayments.

(f) To make transfers to any other fund in the state treasury, provided such transfers shall not exceed the amount transferred previously from that other fund into the ICF assessment fund.

[56-1603, added 2011, ch. 164, sec. 24, p. 480; am. 2012, ch. 327, sec. 1, p. 908.]

56-1604. INTERMEDIATE CARE FACILITY ASSESSMENTS. (1) The ICF shall pay the ICF assessment to the fund in accordance with the provisions of this chapter.

(2) The aggregated amount of assessments for all ICFs during a fiscal year shall be an amount not exceeding the maximum percentage allowed under federal law of the total aggregate net patient service revenue of assessed ICFs from each provider's prior fiscal year. The department shall determine the assessment rate prospectively for the applicable fiscal year on a per-resident-day basis. The per-resident-day assessment rate shall be uniform for all ICFs.

(3) The department shall collect, and each ICF shall pay, the ICF assessment on an annual basis subject to the terms of this subsection. The ICF assessment shall be due no later than thirty (30) days after the receipt of the department invoice.

[56-1604, added 2011, ch. 164, sec. 24, p. 481.]

56-1605. APPROVAL OF STATE PLAN. The department shall seek necessary federal approval in the form of the state plan amendments in order to implement the provisions of this chapter.

[56-1605, added 2011, ch. 164, sec. 24, p. 481.]

56-1606. MULTIFACILITY LOCATIONS. If an entity conducts, operates or maintains more than one (1) ICF licensed by the department, the entity shall pay the assessment for each ICF separately.

[56-1606, added 2011, ch. 164, sec. 24, p. 481.]

56-1607. TERMINATION OF ICF ASSESSMENTS. (1) The ICF assessment shall terminate and the department shall discontinue the imposition, assessment and collection of the ICF assessment if the plan amendment incorporating the payment in section [56-1604](#), Idaho Code, is not approved by CMS. In the event that CMS subsequently determines that the operation of this assessment program fails to abide by federal statute, regulation and/or CMS policy, the state shall return funds back to the providers on a pro rata basis of the assessments collected. The payment calculations in sections [56-1604](#) and [56-1609](#), Idaho Code, may be modified if necessary to obtain CMS approval of the plan amendment.

(2) Upon termination of the assessment, all collected assessment revenues, less any amounts expended by the department, shall be returned on a pro rata basis to ICFs that paid the ICF assessment.

[56-1607, added 2011, ch. 164, sec. 24, p. 481.]

56-1608. PENALTIES FOR FAILURE TO PAY INTERMEDIATE CARE FACILITY ASSESSMENT. (1) If an ICF fails to pay the full amount of an ICF assessment when due, there shall be added to the assessment, unless waived by the department for reasonable cause, a penalty equal to five percent (5%) of the amount of the assessment that was not paid when due. Any subsequent payments shall be credited first to unpaid assessment amounts rather than to penalty or interest amounts, beginning with the most delinquent installment.

(2) In addition to the penalty identified in subsection (1) of this section, the department may seek any of the following remedies for failure of any ICF to pay its assessment when due:

- (a) Withhold any medical assistance reimbursement payments until such time as the assessment amount is paid in full;
- (b) Suspend or revoke the ICF license; or
- (c) Develop a plan that requires the ICF to pay any delinquent assessment in installments.

[56-1608, added 2011, ch. 164, sec. 24, p. 481.]

56-1609. ANNUAL INTERMEDIATE CARE FACILITY ADJUSTMENT PAYMENTS. (1) All ICFs shall be eligible for annual ICF adjustments.

(2) For the purpose of this section, "medicaid days" are days of ICF services paid for by the Idaho medical assistance program for the applicable state fiscal year.

- (a) For state fiscal year 2011, medicaid days for each provider's cost report ending in calendar year 2009 shall be utilized to determine the ICF adjustment payment.

(b) For state fiscal year 2012, medicaid days for each provider's cost report ending in calendar year 2010 shall be utilized to determine the ICF adjustment payment.

(c) Adjustment payments for a new provider, not new ownership, without a full year cost report shall be determined using medicaid patient day information from the full calendar quarter of business prior to the rate adjustment quarter.

(3) Adjustment payments shall be paid on an annual basis to reimburse covered medicaid expenditures in the aggregate within the upper payment limit.

(4) If a provider does not pay its annual assessment within thirty (30) days after receipt of the department invoice, no further rate adjustment payments shall be made to the provider until receipt of all assessments in arrears. If a provider pays its annual assessment more than sixty (60) days after receiving the department invoice, the subsequent adjustment payment shall be reduced twenty percent (20%).

[56-1609, added 2011, ch. 164, sec. 24, p. 482.]

56-1610. RULEMAKING AUTHORITY. The department shall adopt rules to implement the provisions of this chapter.

[56-1610, added 2011, ch. 164, sec. 24, p. 482.]