**Section 144.100 Exceptional Care Needs of Clients with Developmental Disabilities**

a) Exceptional Care Program

1) The Department of Human Services (Department) may make payments to facilities that meet licensure and certification requirements for skilled nursing facilities – under age 22 (SNF/Ped as may be prescribed by the Department of Public Health (DPH) (see the Department of Public Health's rules at 77 Ill. Adm. Code 390). A participating facility must maintain its licensure and certification and be in compliance with the applicable conditions of participation and licensing and certification standards to be eligible for exceptional care. If DPH notifies the facility, in writing, of a need for a plan of correction for non-compliance with one or more conditions of participation, or that an imposed plan of correction for an A or B licensure finding is required, or if DPH notifies the facility because it has been declared an "immediate and serious threat" to the welfare of any resident(s), that facility will not be allowed to receive exceptional care reimbursement for any additional individuals from the date of DPH's written notification until the date DPH officially determines any and all of the conditions leading to the notification have been satisfactorily resolved. No payment for exceptional care shall be made retroactively for any residents admitted to the facility while the facility was in violation of DPH's rules at 77 Ill. Adm. Code 390. Exceptional care payment for such individuals shall commence when all such violations have been corrected, if such individuals are approved for exceptional care.

2) Exceptional medical care is defined as the level of care with extraordinary costs related to services which may include nurse, ancillary specialist services, and medical equipment and/or supplies that have been determined to be a medical necessity. This may apply to Medicaid clients who currently are residing in SNF/Ped facilities, Medicaid patients who are being discharged from the hospital or other setting where Medicaid reimbursement is at a rate higher than the exceptional care rate for related services, or persons who are in need of exceptional care services and who would otherwise be in an alternative setting at a higher cost to the Department or the Department of Public Aid. This includes but is not limited to persons with complex respiratory illness, ventilator-dependent persons or persons with high medical needs for whom the SNF/Ped provides a cost-effective living arrangement. High medical needs is defined as licensed staffing costs 50 percent above the level III medical add-on licensed staffing reimbursement rate.

3) The Department shall recommend rates to the Department of Public Aid (DPA) for DPA approval in accordance with the provisions of Section 18.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.2] and Section 5-11 of the Illinois Public Aid Code [305 ILCS 5/5-11]. The Department will calculate the rates for exceptional care service categories by using data collected from SNF/Ped exceptional care providers.

b) Exceptional Care Requirements

The Department may reimburse for exceptional care services only if the SNF/Ped provider agrees to the following conditions:

1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents.

2) The provider must meet all conditions of participation in accordance with 42 CFR 483, Subpart I, Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded (1996). If the provider is not in compliance with a condition of participation and such noncompliance is under appeal, The Department will delay action on the provider's application to participate in the exceptional care program pending the official determination by DPH that any and all of the conditions leading to the notification have been satisfactorily resolved.

3) The provider must demonstrate the capacity and capability to provide exceptional care as documented by DPH and Department records, including, but not limited to, being free of Type A violations and/or conditional license brought upon by violations relating to health care services. If the Type A violation and/or conditional license is under appeal, the Department will delay action on the provider's application to participate in the exceptional care program pending the satisfactory outcome of the action of DPH taken in regard to the facility's non-compliance with conditions of participation or the proper implementation of a plan of correction for a licensure finding. Newly licensed facilities are not immediately eligible to participate in the exceptional care program. An assessment may be made jointly by DPH and the Department to determine if the facility demonstrates the capacity and capability to provide exceptional care prior to the facility being open for 12 months. This assessment may be done prior to a facility having been open for 12 months when 15% or more licensed beds are filled with Medicaid eligible residents to present an accurate representation of the facility's ability to care for more medically involved individuals as determined by DPH.

4) For the purposes of this Section, a newly licensed facility is one that has never been licensed before, that has reopened after having discharged all residents or that has changed the focus of its operations (e.g., from ICF/SNF to ICF/MR or SNF/Ped). Facilities that were already participating in the Exceptional Care Program and are sold to a new licensee are not considered newly licensed.

5) The provider must maintain and provide documentation demonstrating:

A) Adherence to staffing requirements as described in subsection (c) of this Section;

B) Adherence to staff training requirements as described in subsection (d) of this Section;

C) Written agreements as required in subsection (e) of this Section;

D) Presence of emergency policy and procedures as described in subsection (f) of this Section;

E) Medical condition of the resident; and

F) Care, treatments and services provided to the resident.

6) When residents are mechanically supported, the provider must have and maintain physical plant adaptations to accommodate the necessary equipment, e.g., emergency electrical backup system. The provider shall maintain records demonstrating the facility's maintenance of emergency equipment. Staff must be familiar with the location and operation of the emergency equipment and related procedures. To assure that staff are familiar with operating the emergency equipment, facilities must provide quarterly in-service training for all staff caring for residents.

c) Exceptional Care Staffing Requirements

1) There shall be at least one registered nurse 24 hours a day seven days per week in the facility. Based on the Department's review of the exceptional care services needs, additional registered nurse staff may be determined necessary by the Department to implement the medical care plan and meet the needs of the individual.

2) There shall be at least one registered nurse or licensed practical nurse on duty at all times and on each floor housing residents (as required by DPH in 77 Ill. Adm. Code 390.1040(b)).

3) For those facilities providing complex respiratory or ventilator services under exceptional care, there shall be a certified respiratory therapy technician or registered respiratory therapist on staff or on contract with the facility.

d) Training Requirements for Facilities Providing Exceptional Care for Persons with Tracheostomies and Ventilator-Dependent Residents

1) At least one of the full-time professional nursing staff members must have successfully completed a course in the care of ventilator-dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapy technician or registered respiratory therapist or a qualified registered nurse who has at least one year's documented experience in the care of ventilator-dependent persons within the last three years. This nursing staff member must receive annual continuing education/in-service training on the care of ventilator-dependent individuals. This requirement may be alternatively satisfied if the facility employs on staff a certified respiratory therapy technician or registered respiratory therapist.

2) All staff caring for ventilator-dependent residents must have documented in-service training in ventilator care prior to providing such care. In-service training must be conducted at least annually by a certified respiratory therapy technician, a registered respiratory therapist or a qualified registered nurse who has at least one year's experience in the care of ventilator-dependent persons. In-service training documentation shall include name and qualifications of the in-service director, duration of presentation, content of presentation and signature and position description of all participants.

3) All staff caring for persons with tracheostomies must have documented in-service training in tracheostomy care, other related medically complex procedures and infection control/universal precautions, prior to providing such care. In-service training documentation shall include the name and qualifications of the inservice director, duration of presentation, content of presentation and signature and position description of all participants. The in-services should address all extraordinary situations and/or aspects of care.

e) Exceptional Care Agreement Requirements

The provider must have a valid written agreement with:

1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator-dependent residents. Supplies include oxygen, oxygen concentrator, tracheostomy supplies and any other items needed for the services to be delivered;

2) A local emergency transportation provider;

3) A hospital capable of providing the necessary care for equipment-dependent residents, when appropriate; and

4) A certified respiratory therapy technician or registered respiratory therapist (unless a respiratory therapist is on staff within the facility) when accepting ventilator-dependent residents or residents requiring respiratory therapy services.

f) Exceptional Care Emergency Policy and Procedures Requirements

The provider must have specific written policies and procedures addressing emergency care for residents requiring exceptional care.

g) Accessibility to Records

The provider must make accessible to the Department, DPA and/or DPH all facility, resident and other records necessary to determine the appropriateness of exceptional care services.

h) Provider Approval and Voluntary Termination Process

1) A provider should notify the Department, in writing, of its interest in participating in the Exceptional Care Program.

2) The Department shall conduct a review of the facility to assure that the facility meets all the exceptional care requirements contained in this Section.

3) The Department shall notify the provider in writing of its approval for exceptional care services.

4) Providers desiring to discontinue provision of exceptional care shall notify the Department, in writing, at least 60 days prior to the date of termination. Payment for exceptional care residents already residing in facilities which notify the Department that they wish to discontinue providing exceptional care services will be reduced to the facility's standard Medicaid per diem rate at the time exceptional care services are discontinued. The Department will review each approved exceptional care client to determine whether he or she may remain in the facility. For the duration of the time that exceptional care clients remain in the facility, the provider must continue to meet the needs of the individual. Should a transfer to another facility be necessary, the provider must contact the responsible case coordinating agency which will assist in locating another provider.

5) It is the responsibility of a SNF/Ped provider to effect appropriate discharge planning for exceptional care residents when terminating services for exceptional care. The Department will assist providers with any information available regarding appropriate placement settings.

i) Determining Eligibility for Exceptional Care Payment

1) A person currently residing in a SNF/Ped, a person being discharged from a hospital or a person who is in another setting must be approved by an authorized Department representative to be eligible for exceptional care payment.

2) Eligible items which may be used in computing the cost of the person's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon reasonable costs for services, medical equipment and supplies for the facility as determined by the Department.

3) The provider must submit a request for exceptional care to the Department. An authorized Department representative will conduct a medical review of the required care and related costs of equipment and supplies. The Department will compute the exceptional care rate as the licensed staff cost in excess of the licensed staff cost of the standard rate methodology of the medical level III add-on plus a related cost factor of 15 percent for equipment and supplies. The Department will notify the provider of the rate to be paid for the exceptional care services provided.

j) Monitoring

1) The Department shall provide for a program of delegated utilization review and quality assurance.

2) The Department shall review exceptional care residents' utilization of services at least once every 90 days. A review may be waived by the Department staff if one or more previous reviews show that a resident's condition has stabilized. However, two consecutive reviews shall not be waived. The Department exceptional care staff will maintain contact with the SNF/Ped regarding the resident's condition during the time period any review is waived.

3) In the event that it is determined that the resident is no longer in need of or is no longer receiving exceptional care services, the Department shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the facility's standard Medicaid per diem rate, effective the later of either the date of the review or the determination by the Department. Notice of this action shall be sent to the provider within 30 days.

4) Providers shall be reviewed annually to determine whether they continue to meet all the criteria to participate in the exceptional care program. If the annual review indicates the facility does not meet the exceptional care criteria or the resident is no longer in need of or is no longer receiving exceptional care services, the Department shall terminate the agreement. If the Department terminates the agreement, the exceptional care rate will be reduced to the facility's standard Medicaid per diem rate. Termination of the agreement shall be effective 30 days after the date of the notice. The Department will review each formerly approved exceptional care client to determine whether he or she may remain in the facility. For the duration of the time that formerly approved exceptional care clients remain in the facility, the provider must meet the needs of the individual. If a transfer to another facility is necessary, the provider must contact the responsible case coordinating agency which will assist in locating another provider.

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