

AN ACT

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;

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

(3) Providing clinical direction to specialized foster caregivers;

(4) Supervision of treatment team leaders.

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

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

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

(a) Section 5153.112 of the Revised Code; and

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

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

(3) Prior to the department of job and family services establishing a training program under section 5103.59 of the Revised Code, training that meets the requirements described in division (B)

(1) of this section may be offered only upon approval by the department. The department shall approve or disapprove a program not later than sixty days after the program is submitted for approval.

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

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

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

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

(A) As used in this section:

(1) "Change of operator," "entering operator," "exiting operator," "ICF/IID," "ICF/IID services," "Medicaid days," "peer group 1," "peer group 2," "peer group 3," "peer group 4," "peer group 5," "provider," and "provider agreement" have the same meanings as in section 5124.01 of the Revised Code.

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

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

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

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

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

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

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

(i) The provider of the ICF/IID has a valid Medicaid provider agreement for the ICF/IID on June 30, 2022, and a valid Medicaid provider agreement for the ICF/IID during fiscal year 2023.

(ii) The ICF/IID undergoes a change of operator that takes effect during fiscal year 2023, the

existing operator has a valid Medicaid provider agreement for the ICF/IID on the day immediately preceding the effective date of the change of operator, and the entering operator has a valid Medicaid provider agreement for the ICF/IID during fiscal year 2023.

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

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

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

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

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

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

~~(2) If the mean total per Medicaid day rate for all ICFs/IID to which the section applies, as determined under division (B)(1)(b) of this section, as of July 1, 2022, and weighted by May Medicaid days from calendar year 2022, is greater than \$365.05, the Department shall adjust, for fiscal year 2023, the total per Medicaid day rate for each ICF/IID to which this section applies by the percentage by which the mean total per Medicaid day rate is greater than \$365.05~~ For fiscal year 2023, the Department shall pay each ICF/IID a rate as determined under Chapter 5124. of the Revised Code.

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

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 239

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____