

Payment During Appeal for Termination or Non-Renewal of Medicaid Certification

When Medicaid certification is either terminated or not renewed, the Department of Medicaid (Department) also must either terminate or not revalidate the Medicaid provider agreement.

The following requirements are specific to nursing facilities:

- 1) Payment is available for covered services provided to eligible residents during the appeals process provided by the state survey agency for the proposed termination or non-renewal of a nursing facility's Medicaid certification if both of the following conditions are met:
 - a) Payment is for those residents admitted prior to the effective date of the order that denied Medicaid payments to the facility for all Medicaid eligible residents admitted after the effective date of the order.
 - b) The appeal is conducted prior to the effective date of termination or non-renewal.
- 2) If the appeals process results in an adjudication order that upholds the state survey agency action, or if the administrative hearing is not completed prior to the certification termination or non-renewal date, payment for services provided to eligible residents may be available for an additional 30 days if both of the following conditions are met:
 - a) The eligible resident was admitted prior to the effective date of the order that denied Medicaid payments to the facility for all Medicaid eligible residents admitted after the effective date of the order.
 - b) The nursing facility cooperates with the state, local, and federal entities in efforts to transfer residents to other nursing facilities, institutions, or community programs that can meet the residents' needs.
- 3) If a nursing facility's appeal of the termination or non-renewal of its certification is upheld, payment for covered services provided to eligible residents is resumed. If the appeal decision is reached after the termination or non-renewal date, payment is made retroactive to the date of termination.

The following requirements are specific to intermediate care facilities for individuals with intellectual disabilities (ICFs-IID):

- 1) In addition to or in conjunction with the appeals process, the ICF-IID may request an informal reconsideration.
 - a) If the informal reconsideration results in an affirmation of the original survey findings, the appeals process moves forward to the administrative hearing if one was requested.
 - b) If the informal reconsideration results in a reversal of the original survey findings, the state survey agency's termination or non-renewal action, based on those original findings, is dismissed.
- 2) During the appeals process provided by the state survey agency for the proposed termination or non-renewal of Medicaid certification for an ICF-IID, payment under regulations for covered services provided to eligible residents shall continue through the earlier of the following:
 - a) The date of issuance of a final order of adjudication that upholds the state survey agency's termination or non-renewal action.
 - b) The 120th day after the effective date of termination of the ICF-IID's provider agreement; or if the ICF-IID provider agreement is not terminated, the 120th day after the effective date of expiration as specified in the provider agreement.

- 3) Payment may be provided up to an additional 30 days following either the cessation of payment on the 120th day post-termination or non-renewal date, or after the issuance of an adjudication order that upholds the state survey agency's termination or non-renewal action. Payment will be available if both of the following conditions are met:
 - a) Payment is for residents admitted to the ICF-IID before the effective date of termination or non-renewal.
 - b) The ICF-IID cooperates with the efforts of local, state, and federal entities to transfer residents to other ICFs-IID, institutions, or community programs that can meet the residents' needs.

The following apply to both nursing facilities and ICFs-IID:

- 1) When the state survey agency certifies there is jeopardy to residents' health and safety, or when it fails to certify there is no jeopardy, payment will end on the effective date of termination, or in the case of an ICF-IID, if it is earlier, the expiration of the provider agreement.
- 2) When the Department acts under instructions from the United States Department of Health and Human Services (HHS), payment ends on the date specified by HHS.