DEPARTMENT OF DEVELOPMENTAL DISABILITIES

County DD board projections and plans

- Requires each county board of developmental disabilities (county DD board) to annually submit to the Department of Developmental Disabilities a five-year projection of revenues and expenditures.
- Authorizes the Department to conduct additional reviews to assess a county DD board's fiscal condition.
- Requires each county DD board to develop an annual plan, instead of a three-year plan, and generally limits the information in the annual plan to information regarding waiting lists and home and community-based services.

Quality assurance reviews

- Eliminates a requirement that county DD board service and support administrators perform quality assurance reviews as a distinct function of service and support administration.

Information about residential services

- Requires the Director of Developmental Disabilities (DD Director) to establish and maintain on the Department's website a searchable database of vacancies in licensed residential facilities.
- Requires a county DD board, when contacted about residential services, to provide information about the different types of residential services that are offered, including ICF/IID and home and community-based services.
- Requires a county DD board to inform an individual of the option to receive ICF/IID services before placing the individual on a waiting list for home and community-based services.

Right to receive ICF/IID services from willing provider

- Codifies in state law a federal requirement that individuals with developmental disabilities who are eligible to receive ICF/IID services have the right to receive the services from any willing and qualified provider.
- Permits individuals with developmental disabilities who are eligible for both ICF/IID and home and community-based services to choose which services to receive.
- Requires the Department to determine whether county DD boards violate these rights.

County DD boards' waiting lists

- Provides that a county DD board's duty to establish a waiting list for home and community-based services applies if the board determines that available resources are insufficient to enroll all individuals who have been assessed as needing the services *and have requested the services*.

Criminal records checks for conditionally employed applicants

- Requires the Department, or other hiring entity, to request a criminal records check before conditionally employing an applicant.

Ohio STABLE Account Program Advisory Board

- Changes the name of Ohio's ABLE Account Program Advisory Board to the STABLE Account Program Advisory Board.

Disciplinary actions against supportive living certificates

- Permits the DD Director, for good cause, to suspend a supported living certificate holder's authority to expand or add supported living services.
- Authorizes the DD Director to issue a summary order suspending a supported living certificate holder's authority to provide supported living to one or more identified individuals when there is an immediate danger of causing serious injury or death.

Medicaid rates for ICF/IID services

- Provides that the mean FY 2020 and FY 2021 Medicaid rates for all ICFs/IID in peer groups 1-B and 2-B as determined under an older formula after certain modifications are made cannot exceed $290.10.
- Requires the Department to reduce the FY 2020 and FY 2021 Medicaid rates for ICFs/IID in peer groups 1-B and 2-B as determined under an older formula if the federal government requires that the ICF/IID franchise permit fee be reduced or eliminated.
- Delays the addition of the quality incentive payment to the Medicaid payment rates, for ICFs/IID, from July 1, 2020, to July 1, 2021.
- Requires the DD Director to establish a workgroup to recommend new quality indicators to be used to determine ICF/IIDs' quality incentive payments.
- Eliminates the current quality indicators and instead requires that new quality indicators be created based on the workgroup's recommendations.
- Modifies the formula to be used to determine the relative weight point value used in determining an ICF/IID's quality incentive payment.
- Reduces ICFs/IID direct support personnel payments once they begin to receive quality incentive payments.
- Permits the Department to pay an ICF/IID a rate add-on for outlier services.

- Requires that to be eligible to receive outlier ICF/IID services, an individual must be a Medicaid recipient, be determined to need intensive behavioral support services, and meet any other requirements specified by the Department.
- Requires the Department to negotiate the amount of the rate add-on with the Department of Medicaid.

ICF/IID franchise permit fee

- Increases the rate of the franchise permit fee imposed on ICFs/IID from $18.02 to $23.95 for FY 2020 and to $24.89 for each fiscal year thereafter.
- Provides for the franchise permit fee to be assessed quarterly instead of annually.
- Provides that an ICF/IID's franchise permit fee for a quarter is to equal the franchise permit fee rate multiplied by the number of the ICF/IID's inpatient days for the quarter.

County share of nonfederal Medicaid expenditures

- Requires the DD Director to establish a methodology to estimate in FY 2020 and FY 2021 the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible.

County subsidies used for nonfederal share

- Requires, under certain circumstances, that the DD Director pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to county boards.

Medicaid rates for homemaker/personal care services

- Provides for the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee in the Individual Options waiver program to be, for 12 months, 52¢ higher than the rate for services to an enrollee who is not a qualifying enrollee.

Direct support professional rate increase (VETOED)

- Would have required that the Medicaid rate for homemaker/personal care services provided by direct support professionals under a Medicaid waiver administered by the Department be $12.82 per hour for calendar year 2020 and $13.23 per hour for the first half of calendar year 2021.

Developmental center services

- Permits a developmental center to provide services to persons with developmental disabilities living in the community or to providers of services to those persons.

Innovative pilot projects

- Permits the DD Director to authorize, in FY 2020 and FY 2021, innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county DD boards.

Central intake/referral system for home visiting programs

- Excludes services provided under Part C of the federal Individuals with Disabilities Education Act from the central intake and referral system used to refer families to those services as well as home visiting programs.

Specialized treatment units for minors

- Permits the managing officer of an institution, with the concurrence of the chief program director, to admit into a specialized treatment unit children ages 10-17 who are in behavior crisis and have serious behavioral challenges.
- Requires a child's parent or legal guardian to enter into a memorandum of understanding with the county DD board and the Department specifying each party's responsibilities and the duration of admission.
- Limits the initial duration of admission to 180 days, but permits the child's parent or guardian to petition the Department to extend admission to a maximum of one year.

Citizen's advisory councils

- Reduces to seven (from 13) the number of a citizen's advisory council members to be appointed for an institution under the Department's control.
- Increases the term of advisory council officers and permits a member to serve as an officer until no longer a council member.
- Designates an institution's managing director as the individual responsible for nominating persons to fill council vacancies.

Employment first task force

- Requires, rather than permits, the DD Director to establish an employment first task force.
- Removes the sunset provisions that would, on January 1, 2020, eliminate the task force.

Interagency Workgroup on Autism

- Requires, rather than permits, the DD Director to establish an interagency workgroup on autism.

Workgroup members' travel expenses

- Permits the DD Director to provide for reimbursement for travel expenses for a workgroup's official members who represent families or are advocates of individuals with developmental disabilities if certain conditions are met.
- Provides that the amount of reimbursement cannot exceed the rates the Director of Budget and Management establishes in rules for the travel expenses of officers, members, employees, and consultants of state agencies.

County DD board projections and plans

(R.C. 5126.053 and 5126.054 with conforming changes in 5123.046, 5126.056, and 5166.22)

Five-year projection of revenues and expenditures

Beginning April 1, 2020, the act requires each county board of developmental disabilities (county DD board) to annually submit to the Department of Developmental Disabilities a five-year projection of revenues and expenditures. Each projection must be in the format established by the Department (in consultation with the Ohio Association of County Boards of Developmental Disabilities) and approved by the superintendent of the county DD board. Projections must be submitted by April 1 each year.

The Department must review each five-year projection and may require a county DD board to do any of the following:

- Submit additional information or a revised projection;
- Permit the Department to visit the county DD board to review documents and other relevant records;
- Complete any reasonable accounting action the Director of Developmental Disabilities (DD Director) considers necessary.

If a county DD board fails to submit a five-year projection, its superintendent must provide an explanation. If the Department finds the explanation to be sufficient, it may grant an extension. If not, or if no explanation is submitted, the Department may conduct further reviews to complete the projection at full cost to the county DD board or revoke the superintendent's certification.

If a county DD board willfully provides erroneous, inaccurate, or incomplete data as part of its projection, the Department may complete the projection at full cost to the board or may revoke the superintendent's certification.

Additional assessments of a board's fiscal condition

The act permits the Department, or another entity designated by or under contract with it, to conduct additional reviews as necessary to assess any county DD board's fiscal condition. Prior notice of an additional review must be provided to the board.

The Department may issue recommendations to discontinue or correct fiscal practices or budgetary conditions that prompted, or were discovered by, an additional review. The superintendent of a county DD board must respond in writing to any recommendations within 90 days.

Annual plans

The act requires county DD boards to develop and submit to the Department annual plans, instead of three-year plans. The annual plans must be submitted by December 31 and specify: (1) the number of individuals with developmental disabilities in the county who are placed on the board's waiting list, the service needs of those individuals, and the projected annualized cost for services, (2) the projected number of individuals to whom the county DD

board intends to provide home and community-based services based on available funding as projected in the five-year projection discussed above, and (3) how the services are to be phased in over the period the plan covers.

The act generally applies other provisions of continuing law pertaining to the former three-year plans to the new annual plans, such as permitting the Department to take action against a county DD board if the plan is not submitted, is disapproved, or is not implemented.

Quality assurance reviews

(R.C. 5126.15, primary; R.C. 5126.055)

The act eliminates a requirement that a service and support administrator perform quality assurance reviews as a distinct function of service and support administration. It also eliminates a requirement that a service and support administrator incorporate the results of those reviews into amendments of an individual's service plan.

County DD boards employ or contract for the services of service and support administrators. Continuing law requires a service and support administrator to perform only those duties that are specified in the law.

Information about residential services

(R.C. 5126.047, primary, 5123.01, 5123.193, 5126.042, and 5126.046)

Information available online

The act requires the DD Director to establish a searchable database of vacancies in licensed residential facilities and maintain it on the Department's website. Every person or governmental entity that operates a licensed residential facility must provide the Department with current and accurate vacancy information in accordance with procedures that the Director must establish.

County DD board duties when contacted about services

The act requires a county DD board, when an individual with a developmental disability or a person acting on the individual's behalf contacts the board about residential services, to inform the individual or person about the different types of programs and services offered as residential services, including both ICF/IID and home and community-based services. When informing the individual or person about ICF/IID and home and community-based services, the county DD board, at a minimum, must both:

- Provide a copy of the Department's pamphlet describing all of the items and services covered by Medicaid as ICF/IID and home and community-based services; and
- Provide assistance in accessing the searchable database of residential facility vacancies that the act requires the Department to make available on its website.

If an individual with a developmental disability or a person acting on the individual's behalf contacts a county DD board to express interest in ICF/IID services, the board must provide contact information for all ICFs/IID in the county that the board serves and contiguous counties.

County DD board duty when placing individual on waiting list

The act requires a county DD board to inform an individual of the option to receive ICF/IID services before placing the individual on a waiting list for home and community-based services. A county DD board also must provide the individual with the contact information for all ICFs/IID located in the county the board serves and contiguous counties and direct the individual to the searchable database of residential facility vacancies that the act requires the Department to include on its website.

Right to receive ICF/IID services from willing provider

(R.C. 5126.046, primary and 5123.044)

The act codifies a federal requirement specifying that an individual with developmental disabilities who is eligible to receive ICF/IID services has the right to receive those services from any willing and qualified provider. Additionally, an individual who is eligible to receive both home and community-based services and ICF/IID services has the right to choose whether to receive home and community-based services or ICF/IID services. The act requires the Department to determine whether a county DD board violates these rights.

County DD boards' waiting lists

(R.C. 5126.042)

The act revises a requirement that a county DD board establish a waiting list for home and community-based services available under Medicaid waivers administered by the Department if the board determines that available resources are insufficient to enroll all individuals who are assessed as needing the services. The act provides that a county DD board is required to establish a waiting list if it determines that available resources are insufficient to enroll all individuals who have been assessed as needing the services *and have requested the services*.

Continuing law requires the Department to adopt rules regarding county DD boards' waiting lists for home and community-based services. Prior law required that the rules establish criteria that a county board had to use to determine the date an individual was assessed as needing the services. The act requires that the rules establish criteria a county DD board must use to determine the date an individual who has been assessed as needing the services *requests* the services.

Criminal records checks for conditionally employed applicants

(R.C. 5123.081)

The act requires the Department, a county DD board, providers, and subcontractors to request a criminal records check on an applicant before conditionally employing the applicant to a position with the Department or a county board. Former law required a criminal records check, but did not require the hiring entity to request it before the conditional employment began.

Ohio STABLE Account Program Advisory Board

(R.C. 113.55 and 113.56)

The act changes the name of Ohio's ABLE Account Program Advisory Board to the STABLE Account Program Advisory Board. Under federal law, eligible individuals with disabilities may be designated as a beneficiary of an ABLE account. Amounts in the account can be used by a beneficiary for qualified disability expenses and are excluded from consideration in determining eligibility for means-tested public assistance programs, such as SSI, Medicaid, and food assistance. The Board is responsible for reviewing the work of the Treasurer of State as it relates to Ohio's program.

Disciplinary actions against supportive living certificates

(R.C. 5123.166, primary, 5123.0414, and 5123.1612)

Ohio law requires a person to have a certificate issued by the DD Director in order to provide supported living services to an individual with a developmental disability.[29] The Director may, for good cause, take action against a certificate, including refusing to issue or renew a certificate, revoking a certificate, or suspending the certificate holder's authority to continue to provide supported living or begin to provide supported living. The act adds that the DD Director also may suspend a certificate holder's authority to expand or add supported living.

Generally, these actions must be taken in accordance with the Administrative Procedure Act (R.C. Chapter 119), which requires prior notice and an opportunity for a hearing. However, preexisting law permits the DD Director to summarily suspend (i.e., without first providing notice and an opportunity for a hearing) a certificate holder's authority to provide supported living when the provider's failure to meet certification standards represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who is receiving or will receive supported living from the provider. The act modifies the following procedures that apply to summary suspensions:

--It requires the DD Director to send a provider notice of the order by certified mail, instead of registered mail as under prior law;

--It requires that the hearing date be within 30 days after receipt of the hearing request only if a provider's written, timely request includes a request for a hearing within that time.

The act also authorizes summary suspensions in an additional circumstance, and specifies different procedures that apply to those summary suspensions. Under the act, the DD Director may issue a summary order suspending a supported living certificate holder's authority to provide supported living if the DD Director determines that (1) the certificate holder's noncompliance with one or more requirements of state law or rules causes or presents an immediate danger of causing serious injury, harm, impairment, or death to an individual and (2) the certificate holder does not remove the conditions that caused or presented those

[29] R.C. 5123.16, not in the act.

conditions before the order is issued. The order is to apply only to individuals the DD Director determines experienced or are in immediate danger of experiencing serious injury, harm, impairment, or death. The order takes immediate effect upon notification to the certificate holder. The county DD board for the county where the individuals identified in the order reside must arrange for an alternative method of providing services to them until the order is lifted.

The DD Director must notify the certificate holder and the county DD board of the order immediately, by telephone, after issuing it. The Director also must provide written notice by electronic or regular mail. Both notices must inform the certificate holder of the right to request a reconsideration. The request may be made within 24 hours after receiving the telephone notice. The Director must reconsider the order within 24 hours after receiving a reconsideration request. The reconsideration may be conducted in person, by telephone, or by review of the certificate holder's written submission that accompanies the request, whichever method the certificate holder chooses. The Director must issue a decision within 24 hours following the conclusion of the meeting, telephone conversation, or review.

The DD Director must lift the order if the Director determines that the certificate holder has removed the conditions that led to the order and that the conditions will not recur.

The act provides that the order does not constitute an action under continuing law that authorizes the DD Director to take disciplinary action against a supported living certificate holder and is not subject to that law or the Administrative Procedure Act. The DD Director's order under this provision of the act does not preclude the Director from taking other action against a certificate holder authorized by that continuing law.

Medicaid rates for ICF/IID services

(R.C. 5124.15, 5124.24, and 5124.26; Sections 261.230 and 601.03 to 601.05, amending Section 261.168 of H.B. 49 of the 132nd G.A.)

Under continuing law, an ICF/IID's Medicaid payment rate is the higher of two rates determined under older and newer formulas. The older formula predates H.B. 24 of the 132nd General Assembly, which enacted the newer one. The older formula expires beginning with FY 2022, at which time an ICF/IID's rate is to be the rate determined under the newer formula.

Revisions to older formula

The act makes two revisions to the law that requires the Department to make certain modifications to the older of the two formulas used to determine the FY 2020 and FY 2021 Medicaid payment rates for ICFs/IID in peer groups 1-B and 2-B.[30]

[30] Peer group 1-B consists of ICFs/IID with a Medicaid-certified capacity exceeding eight. Peer group 2-B consists of ICFs/IID with a Medicaid-certified capacity not exceeding eight, other than ICFs/IID in peer group 3-B. Peer group 3-B consists of each ICF/IID (1) that was certified as an ICF/IID after July 1, 2014, (2) that has a Medicaid-certified capacity not exceeding six, (3) that has a contract with the Department that is for 15 years and includes a provision for the Department to approve all admissions to, and discharges from, it, and (4) whose residents are admitted directly from a developmental center or have

The first revision concerns the target amount. The Department must adjust the total per Medicaid day rate for all ICFs/IID in peer groups 1-B and 2-B if the mean total rate for those facilities is other than a target amount. Under prior law, the target amount was $290.10 or, at the Department's sole discretion, a larger amount. If an adjustment was to be made, it had to equal the percentage by which the mean total per Medicaid day rate was greater or less than the target amount. The act sets the target amount at $290.10, thereby eliminating the Department's authority to use a larger target amount and requiring it to make the adjustment if the mean total rate as determined under the older formula after the modifications are made is greater than that amount.

The second revision concerns the franchise permit fee that continuing law requires ICFs/IID to pay. The act provides that if the U.S. Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department must reduce the Medicaid payment rate for ICFs/IID in peer groups 1-B and 2-B as determined under the older formula after the modifications are made. The reduction in the rate is to reflect the loss to the state of the revenue and federal Medicaid funds generated from the franchise permit fee.

Revisions to newer formula

The act revises parts of the newer formula that is used to determine the Medicaid payment rates of ICFs/IID. The parts concern a direct support personnel payment and a quality incentive payment.

Under prior law, an ICF/IID was to receive a direct support personnel payment equal to 3.04% of its per Medicaid day direct care costs until FY 2021. An ICF/IID was to begin receiving a quality incentive payment beginning with that fiscal year. The act provides for direct support personnel payments to continue in FY 2021 and thereafter. However, beginning in FY 2022, direct support personnel payments are to be reduced to 2.04% of an ICF/IID's per Medicaid day direct care costs. Also, the act provides for quality incentive payments not to begin to be paid until FY 2022.

The amount of an ICF/IID's quality incentive payment is to be based in part on the number of points it earns for meeting quality indicators. Prior law established 13 quality indicators. The act eliminates those quality indicators and instead requires that the quality indicators be based on recommendations contained in a report to be issued by the ICF/IID Quality Indicators Workgroup that the act requires the DD Director to establish. The workgroup is to consist of at least one representative from each of the following as appointed by the Director:

- The Department;

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been determined by the Department to be at risk of admission to a developmental center. (R.C. 5124.01(OO)(2), not in the act.) The modifications to the older formula do not apply when determining the Medicaid payment rate of an ICF/IID in peer group 3-B.

- The Ohio Health Care Association;
- The Ohio Provider Resource Association;
- The Arc of Ohio;
- The Values of Faith Alliance;
- The Ohio Association of County Boards of Developmental Disabilities.

Members of the workgroup are to serve without compensation or reimbursement, except to the extent that serving on the workgroup is part of their usual job duties.

Not later than December 31, 2019, the workgroup must submit to the DD Director a report containing recommended quality indicators. In making its recommendations, the workgroup must:

- Recommend not more than five quality indicators;
- Recommend quality indicators that address aspects of ICF/IID services that individuals receiving services, their families, and their guardians consider to be important;
- Recommend quality indicators that can be calculated using data the Department already collects or that the Department can collect with minimal additional administrative burden on ICFs/IID;
- Consider utilizing a consumer satisfaction survey for one or more of the quality indicators and consider whether the National Core Indicators could be used for this purpose or if a new survey should be developed; and
- Consider whether any quality indicators that the workgroup recommends should be adjusted for acuity and whether to recommend different quality indicators for ICFs/IID of different sizes or serving different populations.

The workgroup ceases to exist when it submits its report.

Continuing law provides for the amount of an ICF/IID's quality incentive payment to be the product of (1) the relative weight point value and (2) the number of points the ICF/IID earns. The act revises one of the steps to be used to determine the relative weight point value. Under prior law, the Department was to determine the amount equal to 3.04% of the direct care costs of all ICFs/IID as part of the process of determining the relative weight point value. The act reduces this to 1%. As a result, the relative weight point value is to be determined as follows:

1. Determine for each ICF/IID the product of (1) the number if its inpatient days and (2) the number of points it earned for meeting quality indicators;

2. Determine the sum of all of the products determined under (1) for all ICFs/IID;

3. Determine the amount equal to 1%, instead of 3.04%, of the direct care costs of all ICFs/IID;

4. Divide the amount determined under (3) by the sum determined under (2).

Outlier services rate add-on for intensive behavioral support services

Continuing law permits the Department to pay an ICF/IID a separate rate add-on for ventilator-dependent outlier ICF/IID services. The act also permits the Department to pay a separate rate add-on for outlier ICF/IID services provided to residents identified as needing intensive behavioral support services. The Department is to negotiate with the Department of Medicaid the amount of the new rate add-on, if any, or the method by which that amount is to be determined.

Payment of the new rate add-on is conditioned on an ICF/IID applying for it and the Department approving the application. The Department is permitted to approve an application if (1) the ICF/IID submits to the Department a best practices protocol for providing the outlier ICF/IID services and the Department determines that the protocol is acceptable and (2) the ICF/IID meets all other eligibility requirements for the rate add-on to be established in the Department's rules. An ICF/IID that receives approval must provide the services in accordance with the best practices protocol and requirements regarding the services to be established in the Department's rules.

The act provides that a resident is qualified to receive the outlier ICF/IID services if the resident is a Medicaid recipient, needs intensive behavioral support services, and meets all other eligibility requirements to be established in the Department's rules.

ICF/IID franchise permit fee

(R.C. 5168.60, 5168.61, 5168.62, 5168.63, and 5168.64; Section 812.20)

Continuing law imposes a franchise permit fee on ICFs/IID. The act increases the franchise permit fee rate from $18.02 to $23.95 for FY 2020 and to $24.89 for FY 2021 and thereafter.

Under prior law, the franchise permit fee was assessed on a yearly basis and determined as follows:

1. Multiply an ICF/IID's Medicaid-certified capacity on the first day of May of the calendar year in which the assessment was determined by the number of days in the fiscal year for which the fee was assessed;

2. Multiply the product determined under (1) by the franchise permit fee rate.

The act provides for the franchise permit fee to be assessed quarterly instead of annually. As a result, the fee is to be determined by multiplying the franchise permit fee rate by the number of an ICF/IID's inpatient days for a quarter. Each ICF/IID is required by the act to submit to the Department a monthly report containing the number of its inpatient days for that month. A report is due not later than fifteen days after the last day of the month for which it is submitted. Reports must be submitted in a manner the Department is to prescribe. The Department is permitted to review the data included in a report for accuracy. If an ICF/IID fails to submit a report for a month, the number of its inpatient days for that month is to be determined by multiplying the ICF/IID's Medicaid-certified capacity by the number of days in the month.

Under prior law, the Department was required to determine the amount of each ICF/IID's annual franchise permit fee not later than the 15th day of each August and notify each ICF/IID of the amount not later than the first day of each September. The act requires instead that the Department notify each ICF/IID of the amount of its quarterly fee not later than the last day of each October, January, April, and July. Although the fee was formerly assessed annually, ICFs/IID were required by prior law to pay the fee in quarterly installment payments not later than 45 days after the last day of each September, December, March, and June. The act requires that ICFs/IID pay their quarterly fees not later than 45 days after the last day of each October, January, April, and July. The act makes conforming changes to reflect its change from an annual to a quarterly fee.

County share of nonfederal Medicaid expenditures

(Section 261.130)

The act requires the DD Director to establish a methodology to estimate in FY 2020 and FY 2021 the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible. With certain exceptions, continuing law requires the board to pay this share for waiver services provided to an individual who it determines is eligible for its services. Each quarter, the Director must submit to the board written notice of the amount for which the board is responsible. The notice must specify when the payment is due.

County subsidies used for nonfederal share

(Section 261.200)

The act requires the DD Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county DD boards if (1) Medicaid covers the services, (2) the services are provided to a Medicaid recipient who is eligible for them and the recipient does not occupy a bed that used to be included in the Medicaid-certified capacity of another ICF/IID certified before June 1, 2003, (3) the services are provided by an ICF/IID whose Medicaid certification was initiated or supported by a county DD board, and (4) the provider of the services has a valid Medicaid provider agreement for the services for the time that they are provided.

Medicaid rates for homemaker/personal care services

(Section 261.210)

The act requires that the total Medicaid payment rate for each 15 minutes of routine homemaker/personal care services that a Medicaid provider provides to a qualifying enrollee of the Individual Options Medicaid waiver program be 52¢ higher than the rate for services that are provided to an enrollee who is not a qualifying enrollee. The higher rate is to be paid only for the first 12 months, consecutive or otherwise, that the services are provided during the period beginning July 1, 2019, and ending July 1, 2021.

An Individual Options enrollee is a qualified enrollee if all of the following apply:

- The enrollee resided in a developmental center, converted ICF/IID,[31] or public hospital immediately before enrolling in the Individual Options Medicaid waiver program.
- The enrollee did not receive before July 1, 2011, routine homemaker/personal care services from the Medicaid provider that is to receive the higher Medicaid rate.
- The DD Director has determined that the enrollee's special circumstances (including diagnosis, service needs, or length of stay at the developmental center, converted ICF/IID, or public hospital) warrant paying the higher Medicaid rate.

Direct support professional rate increase (VETOED)

(Section 261.220)

The Governor vetoed a provision that would have required that the Medicaid payment rate for homemaker/personal care services provided during calendar year 2020 by direct support professionals under a Medicaid waiver administered by the Department of Developmental Disabilities be $12.82 per hour. The rate for such services provided during the first half of calendar year 2021 would have been set at $13.23 per hour. Homemaker/personal care services are the coordinated provision of a variety of services, supports, and supervision that (1) are necessary to ensure the health and welfare of an individual with a developmental disability who lives in the community, (2) advance the individual's independence within the individual's home and community, and (3) help the individual meet daily living needs. A direct support professional is an individual who works directly with people with developmental disabilities.

Developmental center services

(Section 261.150)

The act permits a residential center for persons with developmental disabilities operated by the Department (i.e., a developmental center) to provide services to persons with developmental disabilities living in the community or to providers of services to these persons. The Department may develop a method for recovery of all costs associated with the provision of the services.

Innovative pilot projects

(Section 261.160)

For FY 2020 and FY 2021, the act permits the DD Director to authorize the continuation or implementation of innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county DD boards. Under the act, a pilot project may be implemented in a manner inconsistent with the laws or rules governing the Department and county DD boards; however, the Director cannot authorize a pilot project to

[31] A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing services under the Individual Options Medicaid waiver program.

be implemented in a manner that would cause Ohio to be out of compliance with any requirements for a program funded in whole or in part with federal funds. Before authorizing a pilot project, the Director must consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio.

Central intake/referral system for home visiting programs

(R.C. 3701.611)

Under law enacted in 2016 by S.B. 332 of the 131st General Assembly, which enacted recommendations of the Commission on Infant Mortality, the Departments of Health and Developmental Disabilities were required to create a central intake and referral system to serve as a single point of entry for access, assessment, and referral of families to appropriate home visiting services and services provided under Part C of the federal Individuals with Disabilities Education Act (IDEA). Part C of IDEA is also known as the "Program for Infants and Toddlers with Disabilities" and is a federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers (ages birth through age 2) with disabilities and their families.[32] The Department of Developmental Disabilities is the lead agency that administers this federal grant program in Ohio.[33]

The act excludes early intervention services from the central intake and referral system. Associated with this change, it eliminates the requirement that the two departments share any funding available to each for local outreach and child find efforts.

Specialized treatment units for minors

(R.C. 5123.691)

The act permits the managing officer of an institution, with the concurrence of the chief program director, to admit children ages 10-17 into a specialized treatment unit within an institution. To be admitted, a child must be in behavior crisis, have serious behavioral challenges, and have either an intellectual disability or autism spectrum disorder. Admission is based on the availability of beds and the clinical treatment needs of the child.

Before a child may be admitted into a specialized treatment unit, the child's parent or legal guardian is required to enter into a memorandum of understanding with the county DD board and the Department. The memorandum must specify each party's responsibilities regarding the care and treatment of the child and the duration of admission.

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[32] Early Childhood Technical Assistance Center, *Part C of IDEA*, available at http://ectacenter.org/partc/partc.asp.

[33] Ohio Department of Developmental Disabilities, *About Ohio Early Intervention*, available at https://ohioearlyintervention.org/about.

The act limits the initial duration of a child's admission into a specialized treatment unit to 180 days, but permits the child's parent or legal guardian to petition the Department to extend the child's length of stay. The Department may grant or deny a petition for extension, but the total duration of admission cannot exceed one year.

The managing officer of an institution has the power to discharge a child from a specialized treatment unit if the chief program director conducts a comprehensive examination of the child and concludes that institutionalization is no longer advisable or that a discharge would be the most effective use of the institution.

Citizen's advisory councils

(R.C. 5123.092; Section 751.10)

The act reduces to seven (from 13) the number of persons to be appointed as members of a citizen's advisory council, which continuing law requires to exist for each institution under the Department's control. The reduction in membership is to be achieved by not filling vacancies as they arise.

Terms for advisory council officers are increased to three years under the act and members are permitted to serve as an officer for as long as they are on the council. Formerly, officers served one-year terms and were limited to serving no more than two consecutive one-year terms.

The act designates an institution's managing director as the individual responsible for nominating persons to fill vacancies on a council. Under former law, nominations were made by the remaining council members. The act eliminates a provision that permitted removal of a member based on several successive, unexcused absences from council meetings.

Employment First Task Force

(R.C. 5123.023)

The act requires the DD Director to establish an Employment First Task Force for the purpose of improving the coordination of the state's efforts to address the needs of individuals with developmental disabilities who seek community employment. Formerly, the Director was permitted but not required to establish this Task Force.

The act also removes sunset provisions that would have eliminated the Task Force on January 1, 2020.

Interagency Workgroup on Autism

(R.C. 5123.0419)

The act requires the DD Director to establish an Interagency Workgroup on Autism for the purpose of improving the state's efforts to address the service needs of individuals with autism spectrum disorders and their families. Formerly, the Director was permitted but not required to establish this Workgroup.

Workgroup members' travel expenses

(R.C. 5123.0424)

The act permits the DD Director to provide for an official member of an official workgroup to be reimbursed for actual and necessary travel expenses the member incurs in the performance of the member's duties on the workgroup, including attending the workgroup's meetings, if certain conditions exist. The conditions are:

- The official member must serve on the official workgroup as a representative of the families of, or advocates for, individuals with developmental disabilities.
- The official member cannot receive reimbursement for the travel expenses from any other source.
- The official member cannot receive wages or other compensation from any other source for performing the member's duties on the workgroup.
- No statute prohibits the workgroup's official members from being reimbursed for travel expenses.

The amount the DD Director provides for an official member to be reimbursed cannot exceed the rates the Director of Budget and Management, under continuing law, establishes in rules for the travel expenses of officers, members, employees, and consultants of state agencies.

To be an official member of an official workgroup, a member must have been appointed by the DD Director. An official workgroup is a workgroup, task force, council, committee, or similar entity that has been established by the Director under the Director's express or implied statutory authority.