
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-calendar year plan, and generally limits the information in the annual plan to information regarding waiting lists and home and community-based services.

Annual cost report audits

- Eliminates the requirement that the Department audit the annual cost reports of all county DD boards and regional councils, and instead gives it discretion to conduct an audit.

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.

Residential facility vacancy database

- 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.

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

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

Adjudication orders 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.
- Expands the DD Director's authority to issue a summary suspension of a supported living certificate holder's authority to continue to provide supported living if there is a danger of immediate and serious harm.

Medicaid rates for ICF/IID services

- Provides that the mean FY 2020 and FY 2021 Medicaid rates for all intermediate care facilities for individuals with intellectual disabilities (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.

Reduction of certified residential facility beds

- Permits the DD Director to purchase residential facility beds for the purpose of reducing the number of ICF/IID beds in this state.

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 of 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.

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 council

- Reduces the membership of a citizen's advisory council appointed for an institution under the Department's control to seven members (from 13).
- 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.

Reimbursement for 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 boards' 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 bill 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 both 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:

1. Submit additional information or a revised projection;
2. Permit the Department to visit the county DD board to review documents and other relevant records;
3. Complete other actions as the Director considers necessary.

If a county DD board fails to submit a five-year projection as required, the Department may withhold funds, conduct further reviews to complete the projection at full cost to the county DD board, and revoke the certification of the superintendent or accreditation of the county DD board. If a county DD board willfully provides erroneous, inaccurate, or incomplete data as part of its five-year projection, the Department may complete the projection at full cost to the county DD board and may revoke the certification of the superintendent or accreditation of the board.

Additional assessments of a county DD board's fiscal condition

The bill 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 county DD 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 the timeframe specified by the Department.

Annual plans

The bill requires county DD boards to develop and submit to the Department annual plans, instead of three-year plans. Under current law, a county DD board must develop a three-calendar year plan that must include three components: (1) an assessment related to wait-listed individuals who need care provided by an intermediate care facilities for individuals with intellectual disabilities (ICF/IID) and may seek home and community-based services, and the sources of funds available to pay the nonfederal share of certain Medicaid expenditures, (2) a preliminary implementation for the first year the plan is in effect, and (3) an implementation of Medicaid case management services and home and community-based services after the plan is approved. The bill replaces the three-calendar year plan with an annual plan requirement and largely eliminates the components that were required in the three-calendar year plan.

Annual plans required under the bill 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 bill generally applies other provisions of existing law pertaining to the three-year plans to the 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.

Annual cost report audits

(R.C. 5126.131)

The bill gives the Department discretion whether to audit annual cost reports submitted by county DD boards and regional councils. County DD boards and regional councils are required to submit an annual cost report to the Department, which, under current law, is required to audit every cost report received.

Quality assurance reviews

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

The bill 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.

Residential facility vacancy database

(R.C. 5123.193)

The bill requires the Director of Developmental Disabilities (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 is required to provide the Department with current and accurate vacancy information in accordance with procedures that the Director is required to establish.

Criminal records checks for conditionally employed applicants

(R.C. 5123.081)

The bill 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 DD board. Current law requires a criminal records check, but does not require the hiring entity to request it before the conditional employment begins.

Ohio STABLE Account Program

(R.C. 113.50, 113.51, 113.53, 113.55, and 113.56)

The bill changes the name of Ohio's ABLE Account Program to the STABLE Account Program. 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 Department already refers to these accounts as STABLE accounts, and the bill makes conforming changes to the Revised Code.

Adjudication orders against supportive living certificates

(R.C. 5123.166 and 5123.0414)

Current 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.¹⁷ 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 bill adds that the DD Director also may suspend a certificate holder's authority to expand or add supported living.

Generally, action against a certificate must be taken in accordance with the Administrative Procedure Act (R.C. Chapter 119); however, current law specifies limited circumstances under which the DD Director may summarily suspend (i.e., take action without affording notice and opportunity for a hearing) an existing certificate holder's authority to provide supported living. As described in the table below, the existing summary suspension authority applies only if the provider has failed to continue to meet certification standards and if several additional conditions are met. The bill expands the summary suspension for other misconduct, not just a failure to continue to meet certification standards, so long as there is clear and convincing evidence of the misconduct and a danger of immediate and serious harm.

Summary suspension of authority to continue providing supported living		
	Existing law	The bill
Authority to summarily suspend an existing provider's authority to continue to provide supported living	The DD Director may issue the order if (1) the Director determines that the provider has failed to continue to meet certification standards, (2) the Director determines the failure represents a pattern of serious noncompliance or creates a substantial risk to the health or safety of an individual who receives supported living from the provider, (3) the Director makes the individual or the individual's guardian aware of the Director's determination, (4) the individual or guardian does not select another provider, and (5) a county DD board has filed a complaint with the probate court describing related abuse or neglect of the individual and the	Same, but adds that the DD Director also may issue the order if (1) there is clear and convincing evidence that the provider has engaged in conduct described below and (2) allowing the provider to continue to provide supported living would present a danger of immediate and serious harm. The Director must find clear and convincing evidence of one of the following: (1) failure to meet or continue to meet certification standards, (2) the provider also provides the individual a residence in violation of existing law, (3) noncompliance with existing criminal records check provisions or abuse and

¹⁷ R.C. 5123.16, not in the bill.

Summary suspension of authority to continue providing supported living		
	Existing law	The bill
	probate court does not issue an order authorizing the board to arrange services for the individual pursuant to an individualized service plan.	neglect registry provisions, (4) misfeasance, malfeasance, or nonfeasance, (5) confirmed abuse or neglect, (6) financial irresponsibility, (7) other conduct the Director determines would be injurious to individuals receiving supported living from the provider.

Current law specifies procedures under the Administrative Procedure Act that apply to summary suspensions. The bill generally maintains those provisions and applies them to a summary suspension issued under the bill's expanded authority to issue summary suspensions, except as follows:

--The bill requires the DD Director to send the provider notice of the order by certified mail, instead of registered mail as under current law;

--The bill requires the DD Director to approve, modify, or disapprove a referee or examiner's report and recommendation not later than ten days after it is sent to the provider, instead of not later than 15 days, as under current law;

--The bill provides for a more expeditious hearing in the case of a summary suspension issued under the bill's expanded authority. Under the existing authority, the hearing must be set within 30 days. For a summary suspension issued under the bill's expanded authority, the hearing must be set within 15 days, but not earlier than seven days, after the provider timely requests a hearing, unless both parties agree to another time.

The bill specifies that a summary suspension issued under the expanded authority in the bill is generally effective until a final adjudication order issued pursuant to the Administrative Procedure Act becomes effective. The final adjudication order must be issued within ten days of completion of the hearing. If the order is not issued in that time, the summary suspension is dissolved, but it does not invalidate any subsequently issued final adjudication order. A final adjudication order cannot be suspended by a court during pendency of an appeal filed under the Administrative Procedure Act.

Medicaid rates for ICF/IID services

(Section 261.168 of H.B. 49 of the 132nd G.A.)

The bill 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.¹⁸ Under current law, an

¹⁸ 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

ICF/IID's Medicaid rate for services provided during those fiscal years is the higher of the rates determined under the two 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 2022.¹⁹

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. The target amount is \$290.10 or, at the Department's sole discretion, a larger amount. If an adjustment is to be made, it must equal the percentage by which the mean total per Medicaid day rate is greater or less than the target amount. The bill 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 bill 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.

Reduction of certified residential facility beds

(Section 261.111)

The bill permits the DD Director to purchase one or more residential facility beds for the purpose of reducing the number of beds that are certified for participation in Medicaid as ICF/IID beds in this state. The Director must establish priorities for the purchase of beds. The priorities may include beds located in a building in which a nursing facility is also located and beds located in a residential facility that has a licensed capacity of 16 or more beds. The purchase price is to be the price the Director determines is reasonable based on the priorities. The purchase is not required to be made by competitive selection.

County share of nonfederal Medicaid expenditures

(Section 261.130)

The bill 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

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 DD to approve all admissions to, and discharges from, it, and (4) whose residents are admitted directly from a developmental center or have been determined by the Department to be at risk of admission to a developmental center. (R.C. 5124.01(OO)(2).) The modifications to the older formula do not apply when determining the Medicaid payment rate of an ICF/IID in peer group 3-B.

¹⁹ R.C. 5124.15.

law requires the county DD board to pay this share for waiver services provided to an individual who the board determines is eligible for its services. Each quarter, the DD Director must submit to the county DD 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 bill 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 bill 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:

1. The enrollee resided in a developmental center, converted ICF/IID,²⁰ or public hospital immediately before enrolling in the Individual Options Medicaid waiver program.
2. 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.
3. 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.

Developmental center services

(Section 261.150)

The bill 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.

²⁰ 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.

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 bill 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 bill, 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 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.²¹ The Department of Developmental Disabilities is the lead agency that administers this federal grant program in Ohio.²²

The bill 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 bill 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

²¹ Early Childhood Technical Assistance Center, *Part C of IDEA*, available at <http://ectacenter.org/partc/partc.asp>.

²² Ohio Department of Developmental Disabilities, *About Ohio Early Intervention*, available at <https://ohioearlyintervention.org/about>.

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.

The bill 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 council membership

(R.C. 5123.092; Section 751.10)

The bill reduces the number of members serving on a citizen's advisory council to seven (from 13). Current law requires that a citizen's advisory council exist for every institution under the Department's control. The bill's reduction in membership is achieved by not filling vacancies on advisory councils as those vacancies arise.

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

The bill designates an institution's managing director as the individual responsible for nominating persons to fill vacancies on a council. Under current law, nominations are made by the remaining council members.

The bill eliminates a current law provision that permits a member's removal from the council based on several successive, unexcused absences from council meetings.

Employment First Task Force

(R.C. 5123.023)

The bill 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. Under current law, the DD Director is permitted but not required to establish this Task Force.

The bill also removes sunset provisions from current law that would, on January 1, 2020, eliminate the Task Force.

Interagency Workgroup on Autism

(R.C. 5123.0419)

The bill 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. Under current law, the DD Director is permitted but not required to establish this Workgroup.

Reimbursement for workgroup members' travel expenses

(R.C. 5123.0424)

The bill 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 following are the conditions:

1. The official member must serve on the official workgroup as a representative of the families of, or advocates for, individuals with developmental disabilities.
2. The official member cannot receive reimbursement for the travel expenses from any other source.
3. The official member cannot receive wages or other compensation from any other source for performing the member's duties on the workgroup.
4. 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.