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CHAPTER 26: ICF/IID SERVICES

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## SANCTIONS AND APPEALS

### Sanctions

Providers should refer to Chapter 1 – General Information and Administration of the *Medicaid Services Manual* or and in the Louisiana Administrative Code, LAC 50: VII, Chapters 321 and 323 for additional information on sanctions and appeals.

When Intermediate Care Facilities for individuals with Intellectual Disabilities (ICF/IID) does not comply with the requirements set forth in the ICF/IID **Standards for Payment**, the Louisiana Department of Health (LDH) may impose sanctions. Sanctions may involve the following:

- Special staffing requirements;
- Withholding of vendor payments;
- Civil fines;
- Denial of payments for new admissions; or
- Termination of the ICF/IID's certification as a Medicaid provider.

### Special Staffing Requirements

When the secretary of LDH determines that additional staffing or staff with specific qualifications would be beneficial in correcting deficient practices, LDH may require a facility to hire additional staff on a full-time or consultant basis until the deficient practices have been corrected. This provision may be invoked in concert with, **or** instead of, the sanctions cited below.

### Withholding of Vendor Payments

LDH may withhold vendor payments in whole or in part in the following situations, which are not all inclusive:

- **Delinquent Staffing Report** – when the ICF/IID provider fails to timely submit a required, completed staffing report. After LDH notifies the provider of the

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delinquent report, vendor payments may be withheld until the completed report is received.

- **Unapproved Staffing Shortage** – when a report indicates an unapproved staffing shortage, vendor payments may be withheld until staffing is brought into compliance.
- **Incorrect/Inappropriate Charges** – when LDH determines that the ICF/IID incorrectly or inappropriately charged recipients, families, or responsible parties, or there has been misapplication of recipient funds, vendor payments may be withheld until the facility does the following:
  - Makes restitution; and
  - Submits documentation of such restitution to LDH Bureau of Health Services Financing.
- **Delinquent Cost Report** – when an ICF/IID fails to submit a cost report within 90 days from the fiscal year end closing date, a penalty of 5 percent of the total monthly payment for the first month and a progressive penalty of 5 percent of the total monthly payment for each succeeding month may be levied and withheld from the vendor's payment for each month that the cost report is due, not extended, and not received. The penalty is nonrefundable.

**Note: BHSF may grant a 30-day extension of the 90-day time limit, when requested by the ICF/IID provider, if just cause has been established. Extensions beyond 30 days may be approved for situations beyond the ICF/IID's control.**

- **Cost Report Errors** – errors greater than 10 percent in the aggregate for the ICF/IID provider for the cost report year may result in a maximum penalty of 10 percent of the current per diem rate for each month the cost report errors are not corrected. The penalty is non-refundable.
- **Corrective Action for Audit Findings** – vendor payments may be withheld when a facility fails to submit corrective action in response to financial and compliance audit findings within **15 days** after receiving the notification letter until such time compliance is achieved.

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- **Failure to Respond or Adequately Respond to Requests for Financial/Statistical Information** – failure of a facility to respond or adequately respond to requests from LDH for financial and statistical information within 15 days after receiving the notification letter may result in payments being withheld until the requested information is received.
  - **Insufficient Medical Recertification** – when a facility fails to secure recertification of a recipient's need for care and services, the vendor's payment for that individual may be withheld or recouped until compliance is achieved.
  - **Inadequate Review/Revision of Plan of Care (IHP)** – when a facility repeatedly fails to ensure that an adequate IHP for a recipient is reviewed and revised at least at the required intervals, payment may be withheld or recouped until compliance is achieved.
  - **Failure to Submit Response to Survey Reports** – when a facility fails to submit an acceptable response within 30 days after receiving a survey report from LDH, CMS, OIG or the Legislative Auditor, vendor payments may be withheld until an adequate response is received, unless the appropriate agency extends the time limit.
- Corrective Action on Complaints** – when a facility fails to submit an adequate corrective action plan in response to a complaint within seven days after receiving the complaint report, vendor payments may be withheld until an adequate corrective action plan is received, unless the time limit is extended by LDH
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- **Delinquent Utilization Data Requests** – facilities will be required to submit utilization data in a timely manner when requested by LDH. Providers will be given written notice when the utilization data has not been received by the due date. The notice will advise the provider of the date by which the utilization data must be received to avoid withholding of vendor payments. The due date will never be less than 10 days from the date the notice is mailed to the provider. If the utilization data is not received by the due date indicated in the notice, payments will be withheld until the utilization data is received.
  - **Termination or Withdrawal from the Medicaid Program** – when a provider is terminated or withdraws from the Medicaid Program, vendor payments will be withheld until all programmatic and financial issues are resolved.