
CHAPTER 26: ICF/IID SERVICES

SECTION 26.4: BENEFICIARY RIGHTS**PAGE(S) 6**

BENEFICIARY RIGHTS**Written Policies**

The facility will establish written policies that protect the beneficiary's legal rights, promote quality of life, and maintain their sense of dignity and self-determination. The chief executive officer will be responsible for assuring the staff comply with these policies.

Notification of Rights

All beneficiaries, families, and/or responsible parties will sign a statement verifying that they have been fully informed, both verbally and in writing, at the time of admission, and when changes occur during the beneficiary's stay in the facility, of the following:

1. Facility rules and regulations;
2. Beneficiary rights;
3. Beneficiary responsibilities to obey all rules and regulations and respect the personal rights and private property of the residents; and
4. Rules for conduct at the time of beneficiary admission and subsequent changes during their stay in the facility.

Changes in the beneficiary rights or responsibilities will be conveyed both verbally and in writing to each beneficiary, family member, and/or responsible party at the time of or before the change.

Receipt of the change will be acknowledged, in writing, by each capable beneficiary, family member, and/or responsible party. This written acknowledgment will be witnessed by a third person.

Each beneficiary must be fully informed, in writing, of all chargeable services available in the Intermediate Care Facility for individuals with Intellectual Disabilities (ICF/IID). This will include any charges for services not paid for by Medicaid or not included in the facility's basic rate per day charges. The facility must provide this information either before or at the time of admission and on a continuing basis as changes occur in services or charges during the beneficiary's stay.

CHAPTER 26: ICF/IID SERVICES

SECTION 26.4: BENEFICIARY RIGHTS

PAGE(S) 6

Legislation

Civil Rights Act of 1964 (Title VI)

Title VI of the **Civil Rights Act of 1964** states, "*No persons in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.*"

The facility will meet the following criteria in regard to Title VI:

1. **Compliance:**

The facility will be in compliance with **Title VI** and will not discriminate, separate, or make any distinction in housing, services, or activities based on race, color, or national origin.

2. **Written Policies:**

The facility will adopt and implement written policies for compliance with Title VI. All employees and contract service providers who provide services to beneficiaries will be notified in writing of the Civil Rights policy.

3. **Community Notification:**

The facility will notify the community that the ICF/IID activities and services are provided to beneficiaries without regard to race, color, or national origin. The notice to the community may be given by letters to and meetings with physicians, local health and welfare agencies, paramedical personnel, and public and private organizations having interest in equal opportunity. Notices published in newspapers and signs posted in the facility may also be used to inform the public.

4. **Housing:**

All beneficiaries will be housed without regard to race, color, or national origin. An ICF/IID will not have dual accommodations to effect racial segregation. Occupancy of rooms on a nondiscriminatory basis will be required. There will be a policy prohibiting assignment of rooms by race. Beneficiaries **will not be asked** if they are willing to share a room with a person of another race, color, or national origin. Beneficiary transfer will not be used to evade compliance with Title VI.

CHAPTER 26: ICF/IID SERVICES

SECTION 26.4: BENEFICIARY RIGHTS**PAGE(S) 6**

5. Open Admission Policy:

An open admission policy and desegregation of the ICF/IID will be required, particularly when the facility previously excluded or primarily serviced beneficiaries of a particular race, color, or national origin. Facilities that exclusively serve beneficiaries of one race have the responsibility for taking corrective action, unless documentation is provided that this pattern has not resulted from discriminatory practices.

6. Beneficiary Services:

All beneficiaries will be provided medical, non-medical, and volunteer services without regard to race, color, or national origin. All administrative, medical and non-medical services are covered by this requirement.

An ICF/IID's staff will provide beneficiary services without regard to race, color, or national origin.

The facility also must not discriminate in hiring or firing of employees, including in contractual and consultative capacities.

Section 504 of the Rehabilitation Act of 1973

Facilities will comply with **Section 504** of the **Rehabilitation Act of 1973** that states, "*No qualified person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.*"

Age Discrimination Act of 1975

This act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance. All ICF/IID must be in compliance with this Act.

Americans with Disabilities Act of 1990

All facilities must be in compliance with this Act.

CHAPTER 26: ICF/IID SERVICES

SECTION 26.4: BENEFICIARY RIGHTS**PAGE(S) 6**

Beneficiary Rights

Resident Bill of Rights

Upon admission to the facility, the ICF/IID shall provide to each beneficiary or their responsible party a copy of the residents' bill of rights. Each beneficiary must be:

1. Fully informed by a physician of his health and medical condition unless the physician decides that informing the resident is medically contraindicated;
2. Given the opportunity to participate in planning his total care and medical treatment;
3. Given the opportunity to refuse treatment; and
4. Given informed, written consent before participating in experimental research.

If the physician decides that informing the beneficiary of their health and medical condition is medically contraindicated, it must be documented in the beneficiary's record.

Each beneficiary must be transferred or discharged in accordance with the discharge plans in the individual habilitation plan (IHP) and/or the procedures on transfers and discharges as stated in this manual. See Sections 26.2 Covered Services and 26.5 Transfers and Discharges.

Beneficiaries must be encouraged and assisted in exercising their rights as a beneficiary of the facility and as a citizen. Beneficiaries must be allowed to submit complaints or recommendations concerning the policies and services of the ICF/IID to staff and/or to outside representatives free from restraint, interference, coercion, discrimination, or reprisal. This includes the right to due process.

Beneficiaries must be allowed to manage their personal financial affairs and taught to do so to the extent of individual capability. If a beneficiary requests assistance from the facility in managing their personal financial affairs, the request must be in WRITING and the facility must comply with the record keeping requirements of this manual chapter.

Beneficiaries must be free from physical, verbal, sexual or psychological abuse or punishment. Beneficiaries must be free from chemical and physical restraints unless the restraints are used in accordance with beneficiary health, safety, and habilitation regulations. Refer to Section 26.3 Beneficiary Behavior.

CHAPTER 26: ICF/IID SERVICES

SECTION 26.4: BENEFICIARY RIGHTS

PAGE(S) 6

Privacy

Beneficiaries must be treated with consideration, respect, and full recognition of their dignity and individuality and must be given privacy during treatment and care of personal needs. Beneficiary's records, including information in an automated database, must be treated confidentially. Beneficiaries must give written consent before the facility may release information from their records to anyone not authorized by law to receive it.

A married beneficiary must be given privacy during visits by their spouse. If both the beneficiary and their spouse are residents of the facility, they must be permitted to share a room.

No beneficiary may be required to perform services for the facility. Those beneficiaries who work by choice for the facility must be compensated for their efforts at prevailing wages and commensurate with their abilities.

Each beneficiary must be allowed to:

1. Communicate, associate, and meet privately with individuals of their choice, unless this infringes on the rights of another beneficiary(s);
2. Send and receive personal mail *unopened*; and
3. Have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within their IHP.

Beneficiaries must be allowed to participate in social, religious, and community group activities.

Beneficiaries must be allowed to retain and use their personal possessions and clothing as space permits.

Beneficiaries may be allowed to have burial insurance policy(s). The ICF/IID's administrator or designee, with the beneficiary's permission, may assist the beneficiary in acquiring a burial policy, provided that the administrator, designee, or affiliated persons derive no financial or other benefit from the resident's acquisition of the policy.

Violation of Rights

A person who submits or reports a complaint concerning a suspected violation of a beneficiary's rights, services or conditions in an ICF/IID, or who testifies in any administrative or judicial proceeding arising from such complaints, will have immunity from any criminal or civil liability

CHAPTER 26: ICF/IID SERVICES

SECTION 26.4: BENEFICIARY RIGHTS**PAGE(S) 6**

unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justifiable issue of either law or fact by the complaining party.