February 17, 2025

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Centers for Medicare and Medicaid Services Office of Clinical Standards and Quality
Quality, Safety and Oversight Group
Division of Continuing and Acute Care Providers
7500 Security Blvd
Baltimore, MD 21244

RE: Regulations and Policy Impacting ICF/IIDs

Dear Mr. Howard:

On behalf of the American Network of Community Options and Resources (ANCOR), w thank you again for the opportunity to discuss our concerns about the rapid closures of Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) and resulting challenges to access those services.

Founded more than 50 years ago, ANCOR is a national, nonprofit association representing more than 2,600 private community-based providers of long-term supports and services to people with I/DD. Combined, our members support more than one million people with I/DD across their lifespan and are funded almost exclusively by Medicaid.

We are grateful for the opportunity to provide feedback to your office before the initiation of formal policy and rulemaking impacting ICF/IIDs. Please find the feedback below with suggestions to modernize existing ICF/IID requirements, enhance access to care, and improve policy clarity as follows:

<u>Specially Constituted Committee and PRN Medications</u>

The ICF/IID facilities are increasingly supporting individuals with complex medical and behavioral health needs with the diminishment of access to services. Unfortunately, current regulations do not distinguish between medications prescribed for medical and mental health reasons, including managing anxiety and depression symptoms. These current restrictions hinder the ability of people with disabilities to receive timely and appropriate care, create obstacles for medical professionals to prescribe necessary medication, and limit access to certain essential medications.

Certain medications offered on a PRN basis at times may offer quick relief from acute symptoms necessary to promptly support the recipient's comfort and ability to acquire, retain, and improve skill-development. For prescribing medical professionals, there are challenges related to navigating complex regulations and approval processes, which limit their ability to exercise professional judgment in determining the best course of treatment for their patients. Consequently, this results in some medical professionals opting not to serve people receiving ICF/IID services.

Relevant citations and recommendations:

W262, W281, W312, W311	**§483.440(f)(3)(i): The facility must designate and use a specially constituted committee or committees consisting of members of facility staff, parents, legal guardians, clients (as appropriate), qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior, and persons with no ownership or controlling interest in the facility to—review, approve, and monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights;** **§483.450(e)(2): Drugs used for control of inappropriate behavior must be approved by the interdisciplinary team and be used only as an integral part of the client's individual program plan that is directed specifically towards the reduction of and eventual elimination of the behaviors for which the drugs are employed.** 1. *Clarify in interpretive guidance that an assessment of privacy and conflicts of interest is required when families, guardians and clients serve on the Specially Constituted Committee.* 2. *Clarify in interpretive guidance that reduction plans are unnecessary if medically contraindicated.* 3. *Clarify in interpretive guidance the definition of inappropriate behavior and/or symptoms (W311 and W281) to address how medications, such as Depakote for seizures or Zoloft for depression, should be addressed within the Specially Constituted Committee (SCC) and what requirements apply. Specify which medications must be reviewed by SCC when used to address an ongoing medical condition, including but not limited to epilepsy, or a mental health condition, including but not limited to depression.* 4. *Allow the use of PRN medications in response to behavioral management needs if:* • *Prescribed by a medical provider;* • *Approved by IDT;* • *Follow all specially constituted committee requirements for medication management of inappropriate behaviors;*

	• *Use is specifically outlined in the IPP/behavior management plan; and* • *The facility has policies and procedures to ensure appropriate use with layers of approvals before administering the PRN medication.*
W274	***§483.450(b)(1): The facility must develop and implement written policies and procedures that govern the management of inappropriate client behavior.*** *Add interpretive guidance that requires agency policies to encompass or address the use of positive behavior support, trauma-informed care, and other supportive and person-centered care practices in agency policies.*

Qualified Intellectual Disabilities Professional

There is currently a direct support workforce crisis due to insufficient funding and long-term underinvestment which has drastically impacted access to services for people with I/DD. A sufficient and qualified Qualified Intellectual Disabilities Professional (QIDP) workforce is critical to the success and support of ICF/IDD services. Unfortunately, ICF/IID services nationwide struggle to hire and retain QIDPs to maintain access to support.

Recognizing associate degrees with relevant education and practical experience would allow ICF/IDD facilities to tap into a broader talent pool while maintaining competency standards. Further, establishing alternative pathways, such as a QIDP certification, would ensure individuals with degrees in fields other than human services can meet the role demands while increasing the workforce and addressing staffing shortages. Moreover, adopting a national framework for evaluating the appropriateness of foreign degree programs would reduce barriers for qualified applicants.

Relevant citations and recommendations:

W180	**§483.430(b)(5)(x): To be designated as a human services professional an individual must have at least a bachelor's degree in a human services field (including, but not limited to: sociology, special education, rehabilitation counseling, and psychology).** 1. *Add an associate's degree in a human services field as an alternative to a bachelor's degree.* 2. *Add a process that allows someone with either an associate or bachelor's degree that is not in human services to work as a QIDP with preparation and training to successfully carry out the duties, e.g., a QIDP certification or completed a series of training in QIDP work.* 3. *Clarify in interpretative guidance the process for approving individuals with foreign degrees to work as a QIDP.*

Removing Unnecessary Redundancies

There are currently regulations in place which are redundant of precautions governed through other regulation and policy. For example, further regulation for tuberculosis control is unnecessary as W455 mandates a program that encompasses Tuberculosis control. Eliminating it would overlap and simplify compliance without compromising safety.

Relevant citations and recommendation:

W327	**§483.460(a)(3)(iv): Tuberculosis control, appropriate to the facility's population, and in accordance with the recommendations of the American College of Chest Physicians or the section on diseases of the chest of the American Academy of Pediatrics, or both.** *Remove this regulation, as infection control tag W455 requires that "there must be an active program for the prevention, control, and investigation of infection and communicable diseases," which covers Tuberculosis control.*

Expanding Technology Options for People with I/DD

Through the expansion and advancements of technology, additional considerations must be in place to support the self-determination, privacy, and independence for people with I/DD who rely on ICF/IID services. For example, enabling technologies within the choice and self-management requirement would provide clarity for all parties that enabling technologies, such as sensors, self-medication devices, voice-activated devices, wearable health monitors, smart home devices, and digital reminders, can enhance the person's control over their environment and choice-making. This approach aligns with person-centered care principles, ensures services are tailored to each client's needs and preferences, and reduces confusion ensuring that technologies are used appropriately and effectively.

By providing guidance that includes varying technologies and training, in addition to current language around video/audio equipment, ensures that privacy considerations are in place for the wide range of technologies available today. Explicitly identifying them in privacy considerations, further ensures their use adheres to privacy standards while allowing for their beneficial application.

Relevant citations and recommendations:

W247	**§483.440(c)(6)(vi): Include opportunities for client choice and self-management.** 1. *Add clarifying interpretive guidance that enabling technologies, such as sensors, self-medication devices, voice-activated devices, wearable health monitors, smart home devices, and digital reminders, are effective tools that may support more control over the person's environment and decision-*

	making. 2. *Specify that when enabling technologies are used, they should be based on the person's choice and aimed at enhancing self-management rather than serving as replacements for staff or for staff convenience.*
W242	**§483.440(c)(6)(iii): Include, for those clients who lack them, training in personal skills essential for privacy and independence (including, but not limited to, toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication of basic needs), until it has been demonstrated that the client is developmentally incapable of acquiring them.** 1. *Add clarifying interpretative guidance to ensure the person's choices and preferences are considered when prioritizing training needs. Specify that training should not only focus on personal skills for privacy and independence but also include the development of functional skills aligned with the client's priorities, goals, and aspirations for the current year and their lifetime.* 2. *Add clarifying interpretative guidance determining which objectives should be formal or informal. Provide a method, such as providing for a reasonable number of formal objectives (e.g. 3-5), to balance client-prioritized areas of formal skill development with those required by regulations, such as medication administration, money management, and adaptive equipment use.*

<u>Timing of Meals and Snacks</u>

Flexibility in mealtimes accommodates the variety of lifestyles of people accessing ICF/IID services. For example, some people get up early on weekends for commitments and others prefer to sleep later during the week due to differing schedules. Further, although family-style dining can benefit some, it may not suit everyone. Regulation and accompanying policy should reflect these person-centered principles.

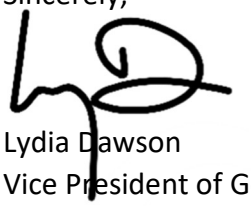
Relevant citation and recommendations:

W470	**§483.480(b)(1)(i): Except on weekends and holidays when a nourishing snack is provided at bedtime, 16 hours may lapse between a substantial evening meal and breakfast.** *Remove the words "on weekends and holidays".*

W471	**§483.480(b)(1)(ii): Not less than 10 hours between breakfast and the evening meal of the same day, except as provided under paragraph (b)(1)(i).** *Reduce to 8 hours to allow for the 16-hour adjustments on all days. See W470.*
W 488	**§483.480(d)(4):To assure that each client eats in a manner consistent with his or her developmental level.** *Add clarifying interpretive guidance to expand options beyond family-style dining which include choices in dining settings. E.g. some people may prefer to eat in a more private setting or in a manner that aligns with their personal routines and comfort levels.*

Thank you for the opportunity to provide this feedback. If you have any questions regarding the above, please do not hesitate to reach out. We would also welcome the opportunity to meet with you to walk through these recommendations together to provide additional clarity and context.

Sincerely,



Lydia Dawson
Vice President of Government Relations