Specialty Hospital
Amendments to 14 NYCRR Parts 619, 633, 680, 681

EMERGENCY REGULATIONS
Effective Upon Publication

- **Paragraphs 619.2(d)(3) and (6) are amended to read as follows:**

(3) Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). An ICF/IID is a residential facility that provides comprehensive care, supervision, habilitation, and treatment for individuals with intellectual and developmental disabilities, that must be operated in compliance with federal ICF/IID regulations in 42 CFR 483 and applicable regulations of this Title. At OPWDD's discretion, an ICF/IID may also be certified as a specialty hospital pursuant to paragraph (6) of this subdivision and Part 680 of this Title. An ICF/IID also certified as a specialty hospital must meet the requirements of Subpart 635-7, Part 680 and Part 681 of this Title, and any other applicable regulations. Where any applicable regulatory requirements differ, the more stringent standards must apply. Notwithstanding any contrary or conflicting requirements contained in regulation or an approved State Plan, a provider of an ICF/IID also certified as a specialty hospital must not:

(i) bill or receive reimbursement for day program services outside the provider's approved ICF/IID rate;

(ii) bill or receive payment for any reserved bed days, including, but not limited to, medical leave and therapy days;

(iii) include any non-billable or vacancy days in the calculation of the occupancy percentage used to adjust the operating component of its ICF/IID rate.

(Note: Certain ICFs/IID are certified by the State Department of Health (DOH); this Part does not apply to those ICFs/IID that are certified by DOH.)

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(6) Specialty hospital. An OPWDD certified Specialty Hospital is a facility that provides residential care and services by or under the direction of a physician to individuals with intellectual or developmental disabilities who require specialized services to address significant health care needs. At OPWDD's discretion, a specialty hospital may also be certified as an ICF/IID pursuant to paragraph (3) of this subdivision and Part 681 of this Title. A specialty hospital also certified as an ICF/IID must meet the requirements of Subpart 635-7, Part 680 and Part 681 of this Title, and any other applicable regulations. Where any applicable regulatory requirements differ, the more stringent standards must apply. Notwithstanding any contrary or conflicting requirements contained in regulation or an approved State Plan, a provider of a specialty hospital also certified as an ICF/IID must not:

(i) bill or receive reimbursement for day program services outside the provider's approved ICF/IID rate;

(ii) bill or receive payment for any reserved bed days, including, but not limited to, medical leave and therapy days;
(iii) include any non-billable or vacancy days in the calculation of the occupancy percentage used to adjust the operating component of its ICF/IID rate.

- **Subdivision 680.13(bh) is amended to read as follows:**

(bh) *Specialty hospital*. A facility including both program and site for which OPWDD has issued an operating certificate, pursuant to Mental Hygiene Law, article 16, to operate as a specialty hospital, and for which the New York State Department of Health has issued a Medicaid provider agreement. At OPWDD's discretion, a specialty hospital may also be certified as an ICF/IID pursuant to paragraph 619.2(d)(3) and Part 681 of this Title. A specialty hospital also certified as an ICF/IID must meet the requirements of Subpart 635-7, this Part, Part 681 of this Title, and any other applicable regulations. Where any applicable regulatory requirements differ, the more stringent standards must apply. Notwithstanding any contrary or conflicting requirements contained in regulation or an approved State Plan, a provider of a specialty hospital also certified as an ICF/IID must not:
(1) bill or receive reimbursement for day program services outside the provider's approved ICF/IID rate;
(2) bill or receive payment for any reserved bed days, including, but not limited to, medical leave and therapy days;
(3) include any non-billable or vacancy days in the calculation of the occupancy percentage used to adjust the operating component of its ICF/IID rate.

- **New subdivision 681.1(l) is added to read as follows:**

(l) At OPWDD's discretion, intermediate care facilities for individuals with intellectual disabilities (ICF/IID) may also be certified as a specialty hospital pursuant to paragraph 619.2(d)(6) and Part 680 of this Title. An ICF/IID also certified as a specialty hospital must meet the requirements of Subpart 635-7, this Part, Part 680 of this Title, and any other applicable regulations. Where any applicable regulatory requirements differ, the more stringent standards must apply. Notwithstanding any contrary or conflicting requirements contained in regulation or an approved State Plan, a provider of an ICF/IID also certified as a specialty hospital must not:
(1) bill or receive reimbursement for day program services outside the provider's approved ICF/IID rate;
(2) bill or receive payment for any reserved bed days, including, but not limited to, medical leave and therapy days;
(3) include any non-billable or vacancy days in the calculation of the occupancy percentage used to adjust the operating component of its ICF/IID rate.

- **Paragraph 633.15(e)(2) is amended to read as follows:**

(2) For persons residing in ICF/DDs and specialty hospitals, the amount will be determined by using Medicaid Law and the Social Services Law and regulations (18NYCRR). For the purposes

of determining the amount, a specialty hospital certified under Part 680 of this Title, or both Parts 680 and 681 of this Title, is considered a residential health care facility as defined by section 2801 of the Public Health Law.

(i) On a monthly basis the components of personal allowance include but are not limited to:

(*a*) for non-working persons, either:

(*1*) the statutory personal allowance as specified in section 366 of the Social Services Law; or

(*2*) the full monthly SSI payments for individuals residing in title XIX (Medicaid) certified facilities.

(*b*) for working persons:

(*1*) the first $65 of gross earnings plus one half the earnings above $65; and

(*2*) an amount up to the statutory personal allowance from:

(*i*) the balance of earnings; and

(*ii*) all unearned income; and

(*c*) incidental income for all persons, whenever it exists.