



## P R O V I D E R   B U L L E T I N

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**To:           Nursing Facility Providers****Subject:   Revised Procedure for Medicaid Replacement Bed  
Exception**

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## Overview

This bulletin revises [BT200838](#), dated October 2, 2008, adding guidance concerning beds that are removed from certification for Title XIX (Medicaid) that are not concurrently recertified in a new location.

Public law *121-2008*, also known as *Senate Enrolled Act (SEA) 315, Section 5*, which was enacted by the 2008 General Assembly, effective March 31, 2008, restricts additional beds from certification in the state Medicaid program unless the statewide occupancy rate is more than 95 percent. The statewide occupancy rate is calculated annually on January 1 by the Indiana State Department of Health (ISDH). This law applies to comprehensive care beds that are licensed for Medicaid only or for Medicaid and Medicare. There are some exceptions that allow facilities to replace these beds. This bulletin outlines the exceptions and provides guidance about applying for a bed exception.

## Exceptions

### ***Licensed-only Beds or Beds Licensed and Certified for Medicare Only***

There are no restrictions to adding comprehensive care beds that are to be licensed only or are to be licensed and certified only for Medicare. Applications for these beds should be submitted to the ISDH as usual.

### ***Acute Care Beds and Specialized Service Beds***

The restriction does not apply to acute care beds, usually found in hospitals, being converted to comprehensive care beds, except as restricted by current regulations; nor does it apply to comprehensive care beds that are providing “specialized services” and are therefore subject to *IC 16-29*. Specialized services beds are used solely for patients who have been diagnosed as having one of the following conditions:

- Ventilator dependent
- Brain and high spinal cord trauma or a major, progressive neuromuscular disease

- Infected by the human immunodeficiency virus (HIV)

Applications under these exceptions should be submitted to the ISDH as usual.

### **Continuing Care Retirement Communities**

The restriction does not apply to continuing care retirement communities (CCRCs) required to file disclosure statements under *IC 23-2-4* if the CCRC was under development on March 30, 2008. In determining if the CCRC was under development on that date, the ISDH considers whether architectural plans have been completed; funding has been received; zoning requirements have been met; construction plans have been approved by the ISDH and the Division of Fire & Building Safety; and any other evidence that the ISDH determines is an indication that the CCRC was under development. CCRCs must apply to the ISDH to add additional beds.

### **Replacement of Existing Beds**

The restriction does not apply to beds that are meant to replace existing Medicaid-certified beds. Facilities can replace existing Medicaid-certified beds if the following requirements are met:

1. Submit an application to the Division of Aging (DOA)
2. Meet the licensure, survey, and certification requirements of the ISDH (*IC 16-28*)

Beds may be replaced within a facility and between facilities. The beds must be certified at the time of application, except in the case of a disaster.

You will be notified of the DOA's decision. After the DOA gives initial approval, the application packet will be forwarded to the ISDH for determination of compliance with the licensure, survey, and certification requirements.

All changes in bed size must be in accordance with *Chapter 3* of the *State Operations Manual* at 3202 – *Change in Size or Location of Participating skilled nursing facility (SNF) and/or nursing facility (NF)*, found at <http://www.cms.hhs.gov/manuals/downloads/som107c03.pdf>. Changes must also be in compliance with ISDH requirements in the *Administrator's Reference Guide* found at <http://www.in.gov/isdh/21597.htm>.

### **Application Procedure for Replacement Bed Exception – FSSA, Division of Aging**

Please provide the following to apply for a replacement bed exception:

1. A letter from the licensee that owns the Medicaid-certified beds that are being replaced or transferred to another licensee. Include the name, address (including county), Indiana Health Coverage Programs (IHCP) numbers – both Legacy Provider Identifier, or LPI, and National Provider Identifier, or NPI – a Centers for Medicare & Medicaid Services (CMS) certification number (CCN), and a contact person for **each** facility involved, as well as the number of beds to be replaced or transferred.

2. A letter from the licensee receiving the beds that verifies the number of Medicaid-certified beds agreed to in the transaction described under number 1. This letter is needed only when more than one facility is involved in the replacement-bed transaction.
3. The facility floor plan prior to the requested replacement or transfer of beds for **each** facility involved
4. The facility floor plan after the requested replacement or transfer of beds for **each** facility
5. State Form (SF) 4322, Bed Inventory, prior to the requested replacement or transfer of beds for **each** facility involved; SF 4322 is located at <http://www.state.in.us/icpr/webfile/formsdiv/04332.pdf>.
6. State Form 4322, Bed Inventory, after the requested replacement or transfer of beds for **each** facility involved
7. If the beds are being transferred to different ownership, a copy of the complete agreement about the bed transfer between the health facility transferring the beds and the facility receiving the transferred beds

### **How Long Can a Bed Be Kept Out of Service and Still Count as a Transferred Bed?**

*Public Law 121-2008* is silent about how long a bed certified by the Medicaid (Title XIX) program can stay out of service after it is transferred from one facility to another. Therefore, the DOA of the Family and Social Services Administration (FSSA) has established the following procedures.

The facility or entity that receives the previously Medicaid-certified beds must provide the DOA with a letter and any other documentation requested by the DOA that establishes the intent to recertify the beds. The letter must include the reasons the beds are not being recertified immediately – for example, a facility is under construction, is building a new wing, or is still in the planning stages; or because of unforeseen events, such as a disaster.

When the provider transfers the beds, the provider must submit all the information available that is currently required in the Application Procedure described in Provider Bulletin [BT200838](#). Beds that are not concurrently recertified for Title XIX must be submitted to the ISDH for recertification no later than June 30, 2011, and may not be recertified for Title XIX in the same building where they were located when removed from Title XIX certification.

Any entity that receives transferred beds and does not immediately put them back into certification must notify the DOA when the entity applies to the ISDH to have the beds certified in the Title XIX program, but this notice must always be given no later than June 30, 2011.

The DA will consider exceptions to this policy upon presentation of just cause.

Expiration of the current moratorium without further legislation controlling supply of Medicaid-certified beds will make these requirements null and void. The current legislation expires July 1, 2011.

Upon approval of the exception by the DOA, the application packet is forwarded to the ISHD, Division of Long Term Care, for its determination of compliance with the licensure, survey, and certification requirements.

Submit all other information to the following address:

**Alice Kelsey**  
**FSSA/Division of Aging**  
**402 West Washington Street, Room W454**  
**Indianapolis, IN 46204**  
**Phone: (317) 234-5856**  
[Alice.Kelsey@fssa.IN.gov](mailto:Alice.Kelsey@fssa.IN.gov)

## **Contact Information**

Contact the FSSA deputy director if you have any questions:

**Faith Laird**  
**Deputy Director**  
**FSSA/Division of Aging**  
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[Faith.Laird@fssa.IN.gov](mailto:Faith.Laird@fssa.IN.gov)