

# IHCP *bulletin*

INDIANA HEALTH COVERAGE PROGRAMS

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## The FSSA clarifies moratorium on Medicaid certification of comprehensive care beds

Public law 229-2011, also known as *House Enrolled Act (HEA) 1001, Section 163*, enacted by the 2011 General Assembly (effective July 1, 2011), prohibits the state from certifying new or converted comprehensive care beds for Medicaid unless the statewide occupancy rate is more than 95%. The statewide occupancy rate, which is calculated annually on January 1 by the Indiana State Department of Health (ISDH), was calculated at an 80% statewide occupancy rate in January 2011. Public law 229-2011 applies to comprehensive care beds that are certified as Medicaid-only beds or dually certified as Medicaid/Medicare beds. It does not apply to Medicare-only beds or other licensed beds that are not certified. Some exceptions allow facilities to replace these beds. Provisions of this section expire June 30, 2014.

Public law 229-2011, *Section 164*, prohibits the Medicaid certification of comprehensive care beds in a new comprehensive care facility for which construction began after June 30, 2011. Some exceptions allow facilities to certify new beds. Provisions of this section expire July 1, 2016.

In this bulletin, the Family and Social Services Administration (FSSA) outlines exceptions to these sections and provides guidance on how to apply for the replacement of existing beds.

### Exceptions

#### **Licensed only beds or beds licensed and certified for Medicare only**

There is no restriction on the addition of newly licensed comprehensive care beds if they will be certified only for Medicare

[Continue](#)

or not certified at all. Applications for licensure or certification for Medicare of these beds are to 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 with 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 are to be submitted to the ISDH as usual.

### **Small house health facilities**

The restriction does not apply to a new category of ISDH-licensed facilities, small house health facilities, as defined in a new section of law, *IC 16-18-2-331.9*, which was also created by *Public Law 229-2011*. Small house facilities are defined as having 10 to 12 private resident rooms in a residential dwelling of 8,000 square feet or less with specific requirements for private bathrooms for each resident, as well as a common living room, kitchen, dining room, and so on. See *IC 16-18-2-331.9* for the complete definition. Applicants seeking Medicaid certification of small house health facility beds are limited to 50 comprehensive care beds per year; the state department may not approve Medicaid certification of more than 100 comprehensive care beds per year as small house health facility beds.

### **Replacement of existing beds**

The restriction does not apply to beds that are meant to replace existing Medicaid-certified beds if the facilities comply with the following requirements. The facilities must:

- Submit an application to the Division of Aging (DA) following the procedures outlined on the next page
- 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 an emergency or disaster.

Applicants requesting replacement of existing beds will be notified of the DA's decision. Upon DA initial approval, the application packet will be forwarded to the ISDH for its determination of compliance with licensure, survey, and certification requirements.

All bed count changes must be in accordance with *Chapter 3 of the State Operations Manual at 3202 – Change in Size or Location of Participating SNF and/or NF*, which can be found on the [Centers for Medicare & Medicaid Services \(CMS\) website](http://www.cms.gov) at cms.gov (Regulations and Guidance > Manuals > Internet-Only Manuals (IOMs)). Changes must also be in

compliance with ISDH requirements that can be found in the Administrator's Reference Guide located on the [ISDH website](#) at [in.gov/isdh](http://in.gov/isdh) (Health Facility Licensing > Long Term Care/ Nursing Homes > Comprehensive Care Facility (Nursing Homes) Licensing and Certification Program).

## Application procedures for “replacement of existing beds” exception

Submit applications for the replacement of existing beds to the FSSA, DA. When submitting a request, please provide the following items:

- A letter from the licensee that owns the Medicaid-certified beds that are being replaced or transferred to another licensee. The letter should state that the transferor agrees to transfer the beds to the receiving facility and should include:
  - The licensee's name and address (including county)
  - The licensee's Indiana Health Coverage Programs (IHCP) Legacy Provider Identifier (LPI)
  - The licensee's CMS Certification Number (CCN)
  - A contact person for each facility involved
  - The number of beds to be replaced or transferred
- A letter from the licensee that will receive the beds verifying the number of Medicaid-certified beds agreed to in the transaction described previously
- The facility floor plan prior to the requested replacement or transfer of beds for each facility involved
- The facility floor plan after the requested replacement or transfer of beds for each facility involved
- A completed *State Form (SF) 4332, Bed Inventory*, reflecting bed inventory as it is prior to the requested replacement or transfer of beds for each facility involved ([state forms](#) are available online at [forms.in.gov](http://forms.in.gov))
- A completed *State Form (SF) 4332, Bed Inventory*, reflecting bed inventory as it will be after the requested replacement or transfer of beds for each facility involved ([state forms](#) are available online at [forms.in.gov](http://forms.in.gov))
- 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 health facility receiving the beds



### Medicaid certification of new comprehensive care beds – construction begun after June 30, 2011

Comprehensive care beds in a new comprehensive care facility for which construction began after June 30, 2011, may

[Continue](#)

not be certified for participation in the Medicaid program before July 1, 2016. This restriction does not pertain if one of the following applies:

- The comprehensive care bed for which the health facility seeks certification is a replacement bed for an existing certified comprehensive care bed. Please follow the application procedures for the replacement of existing beds outlined on the previous page.
- The facility meets the requirements of a small house health facility.
- The facility is a continuing care retirement community that seeks to add licensed beds to an existing facility.
- The facility is a continuing care retirement community that has executed at least 50% of the facility's continuing care agreements with individuals prior to December 31, 2011.

On approval of the exception by the DA, the application packet will be forwarded to the ISDH, Division of Long Term Care, for its determination of compliance with licensure, survey, and certification requirements.

All information should be submitted to:

Karen Filler  
Deputy Director  
FSSA/Division of Aging  
402 West Washington Street, Room W454  
Indianapolis, IN 46204  
Phone: (317) 232-4651  
[Karen.Filler@fssa.in.gov](mailto:Karen.Filler@fssa.in.gov)

#### **Contact information**

If you have any questions you may contact:

Faith Laird  
Director  
FSSA/Division of Aging  
Phone: (317) 232-7123  
[Faith.Laird@fssa.IN.gov](mailto:Faith.Laird@fssa.IN.gov)

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