

Surveys and ICFs/IID

Regulations, Rules, and Process

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In Idaho, ICFs/IID health surveys are governed by both federal certification regulations [State Operations Manual, Appendix J – Responsibilities of Intermediate Care Facilities for Individuals with Intellectual Disabilities (Rev. 178, 04-13-18)¹ and Appendix Q – Core Guidelines for Determining Immediate Jeopardy (Rev. 187, Issued: 03-06-19)²] and state licensure rules [IDAPA 16.03.11 - Intermediate Care Facilities for People With Intellectual Disabilities (ICFS/ID)³].

Appendix J

- Appendix J includes federal statutory designation and W-tag number, the regulatory language, and guidance.
- The regulations are divided into eight Conditions of Participation (CoPs). CoPs represent the overall services and supports an ICF/IID must provide. Under each CoP are the standard level regulations associated with that CoP.

Standard Level Requirements (Standards)

- CoPs and standard regulations contain guidance. The purpose of the guidance is to provide additional clarification that is relevant to the specific requirement of the corresponding regulation.

Exhibit 355

- Probes and procedures previously contained under the guidance in Appendix J have been placed into SOM Exhibit 355⁴.
- The probes and procedures provide surveyors with additional clarification, beyond the guidance in Appendix J, in interpreting the regulation text.

Appendix Q

- Appendix Q provides guidance specific to situations of Immediate Jeopardy. Immediate Jeopardy represents a situation in which the provider's noncompliance has placed the health and safety of individuals in its care at risk for serious injury, serious, harm, serious impairment or death.
- An immediate jeopardy situation is one that is clearly identifiable due to the severity of its harm or likelihood for serious harm and the immediate need for it to be corrected to avoid further or future serious harm.

IDAPA 16.03.11

- State licensure rules contain specific requirements for Idaho. State rules do not contain CoPs.

Survey Types

- There are four types of surveys:
- Initial
- Complaint
- Recertification
- Follow-up

Initial Surveys

- A facility must be fully operational prior to scheduling an initial survey. There is no specific number of days that an ICF/IID must be operational prior to its initial survey. Also, there is no minimum number of individuals who must be in residence at the time of the initial survey. The facility must have enough individuals in residence to demonstrate that it is able to, and does, provide services for the total number of individuals it proposes to serve.

Complaint Surveys

- Anyone may file allegations of provider non-compliance with rules or regulations. The survey agency is required to investigate all such allegations. When a complaint is received, an unannounced complaint survey is conducted which focuses on the rules or regulations related to the allegations of the complaint.

Recertification Surveys

- Unannounced recertification surveys are conducted annually for all ICFs/IID.

Follow-up Surveys

- When deficiencies are cited, an unannounced follow-up survey may be conducted. The purpose of the follow-up survey is to determine that systemic corrective action has been implemented for the deficiencies cited during the previous survey. A follow-up survey may be conducted at the facility or by phone/mail.

Survey Process

- The recertification survey process is divided into three levels:
- Focused Fundamental
- Extended
- Full

Focused Fundamental Survey

- A focused fundamental survey is conducted to determine the quality of services and supports received by individuals.
- Twenty seven key standards are designated as focused fundamental and must be reviewed during each annual recertification survey.

Focused Fundamental Survey

- The focused fundamental survey involves 27 key standards within the ICF/IID CoPs from which all other standards correspond. When the facility is determined to be in substantial compliance with the identified key standard, the standards corresponding from that key standard are automatically determined as being met since the key standard could not be compliant otherwise.

Focused Fundamental Survey

- If any key standard is found to be out of compliance, all regulations corresponding to the key standard(s) must be reviewed to determine compliance or to determine compliance with that condition (i.e., to determine condition-level compliance).
- The State Agency (SA) must, at this point, make a decision as to whether it would be more appropriate to continue the focused fundamental survey by simply adding review of the regulations under the non-compliant key standard(s) or to convert the survey to an extended survey.

Extended Survey

- If the review of the key standard and corresponding standards could result in a condition-level non-compliance finding, then the SA can decide to survey all the standards within that CoP. This review of all the standards within an ICF/IID CoP is known as an extended survey.
- NOTE: Neither the focused fundamental nor the extended survey processes preclude the survey agency from review of any standard, if evidence of non-compliant facility practice is suspected during any survey.

Extended Survey

- If the review of the key standard and corresponding standards results in a CoP non-compliance finding at W122: Condition of Participation Client Protections, W266: Condition of Participation Client Behavior and Facility Practices, or W318: Condition of Participation: Health Care Services, then the team must convert the extended survey to a full survey.

Full Survey

- A full survey is conducted when any one or more of the following criteria are met:
 - The survey team is conducting an initial survey;
 - An immediate jeopardy is called;
 - The survey team determines from the extended survey that Condition-level deficiencies exist at one or more of the specific CoPs at W122, W266, or W318; or
 - At the discretion of the SA
- A full survey requires review of all the standard-level requirements of all CoPs to determine if the facility maintains the process and structure necessary to achieve the required outcomes.

So what does a focused
fundamental survey look like?

The Beginning

- When the surveyors arrive, they will ask to meet with the Administrator to gather needed information and get an update about the facility. This is called the entrance conference.
- In addition to standard entrance procedures, the surveyor and the Administrator complete Form CMS-3070G (ICF/IID Survey Report) together, to capture characteristics of the facility and the facility's population.
- A tool to aid in completing the 3070G can be found under the Training Modules on the Idaho ICF/IID website (Governing Body section): <http://healthandwelfare.idaho.gov/Providers/Providers-Facilities/StateFederalPrograms/ICFID/tabid/431/Default.aspx>

Task One: Select Sample

- The core sample of individuals is selected from a list of the facility's census list. At minimum, the core sample should include individuals that meet one or more of the following criteria:
 - Admission within the last six (6) months;
 - Participation in a day program;
 - On a self-administration program; and/or
 - Frequent hospitalizations or ER visits within the last six (6) months.

Task One: Select Sample

- After the core number of individuals are selected, the surveyor will request a copy of each selected individual's Individual Program Plan (IPP), all corresponding programs, and active treatment schedule.

Task Two: Review Systems to Prevent Abuse, Neglect and Mistreatment

Task Two consists of 2 phases.

- In the absence of pre-existing characteristics, only Phase One is completed. If there are pre-existing criteria or if in the course of the survey concerns with client protections are identified, the surveyor will extend to the Phase Two review.

Task Two: Review Systems to Prevent Abuse, Neglect and Mistreatment

Task Two Phase One

- The critical components of Phase One are client observations including staff-to-client and client-to-client interactions, and staff/client/family interviews. These observations and interviews identify the reporting records or investigation records that will be reviewed by the surveyor.
- These records/reports are requested after the observations and interviews have been completed.
- If the observations, interviews or record reviews during Phase One confirm that the facility is identifying injuries and mistreatment promptly, notifying the appropriate persons, doing appropriate investigations, and doing appropriate interventions, then Task Two is concluded.

Task Two: Review Systems to Prevent Abuse, Neglect and Mistreatment

Surveyors will:

- Review the facility's policies and procedures for abuse, neglect, and mistreatment and for grievances.
- Review the facility's process and information that has been compiled or analyzed on incidents, accidents, allegations and investigations.
- Conduct observations which must be at least 1 hour long. For any specific injury noted, surveyors will request documentation associated with the injury.
- Conduct interviews with clients, family/advocates, and staff.

Task Two: Review Systems to Prevent Abuse, Neglect and Mistreatment

Task Two Phase Two:

- If one or more of the pre-existing criteria (history of non-compliance at W127 or W153-W157) is met or the surveyor determines during Phase One that there is insufficient evidence to find that the facility is in compliance with the Condition of Participation for Client Protections (W122), a more global review is indicated.
- The surveyor will request the facility's log of individual incidents and reports and select a sample of 5 percent of the incidents from the total incidents occurring during the last three (3) months (a minimum of 10 if available). The surveyor will also request the investigative reports for these incidents.

Task Two: Review Systems to Prevent Abuse, Neglect and Mistreatment

- If the facility has a system in place to prevent abuse, neglect and mistreatment and to resolve complaints and takes the appropriate corrective measures, then Task Two is complete.
- If the 5 percent sample review is not determinative as to the compliance with the CoP for Client Protections, or the surveyor identifies any patterns of possible abuse, mistreatment or neglect, or the incident report logs for the past three (3) months indicate an extremely high incident rate, the surveyor will conduct a full review of the total number of incidents and reports for the past three (3) months to identify any deficient practice by the facility.

Task Three: Focused Observations

- The majority of the time on an ICF/IID focused fundamental survey is spent doing observation, associated interviews and associated targeted record review.
- Once the individual core sample is selected and copies of the Individual Program Plan for each selected individual have been obtained, the observations will begin.

Task Three: Focused Observations

Surveyors will:

- Conduct observations (morning, day program, afternoon, and evening) that are each at least 1 hour long.
- A minimum of two meals must be observed and two medication pass observations must be conducted.
- Conduct individual and staff interviews as needed during observations. Staff will be asked about program documentation and any discrepancies between the IPP and observed activities.

Task Three: Focused Observations

Five focused observation areas:

1. Active Treatment: Each IPP must be appropriate for the individual based upon a comprehensive assessment and revised as necessary. The IPP must correspond to what treatments, programs or services the individual is actually receiving.
2. Staff: During observations, surveyors will note how on duty staffing ratios either promote or prevent a safe and productive active treatment environment.

Task Three: Focused Observations

3. Qualified Intellectual Disabilities Professional (QIDP): The increased time devoted to observations during the survey provides more of an opportunity to also observe the QIDP in action.

4. Health Care Services: The surveyor will determine from observations whether or not the sampled clients are receiving medical care as indicated.

5. Physical Environment: During observations, the surveyor will observe the facility for cleanliness, comfortable temperature and any safety hazards (i.e. obstructed walkways, resilient, nonabrasive, and slip-resistant floors). A formal review of the environment to assess State Licensure requirements is generally completed at some point after general observations have been started or completed.

Task Four: Required Interviews

- Interviews are conducted for two purposes: to determine how the individual perceives the services delivered by the facility, and to clarify information gathered during observations. These interviews are conducted in the following order:
 - Individuals,
 - Family/Guardian/Advocate,
 - Direct Care Staff,
 - QIDP and/or professional staff,
 - Managers, administrators, or department heads

Task Four: Required Interviews

Content of in-depth Interviews are used to:

- Determine what the facility does to provide individualized services and supports; and how individuals and families participate in service planning and in making choices about matters important to them.
- Clarify observations

Task Four is only conducted during a full survey

Task Five: Drug Pass

- The surveyors will observe the preparation and administration of medications to individuals (during Task 3).
- The purpose of the review is to direct the facility's attention to assuring an error free drug distribution system.

Task Six: Visit/Assess Each Environment

Task Six is only completed during a full survey. By the end of the survey, each area of the facility serving certified individuals will be visited in order to:

- Ensure that all areas of the facility (including those that are not represented by individuals in the sample) are providing services in the manner required by the regulations.
- Assess generally the physical safety of the environment.
- Assess that individual rights are proactively asserted and protected.

Task Seven: Record Review

A full, complete record review is only conducted during a full survey. For a focused fundamental survey, the purposes of record review are to:

- Verify the applicable information obtained from observations and interviews;
- Review revisions that have been made to the objectives; and
- Verify that needed health and safety supports are in place.

Surveyors use a Record Review Form as a guide, which can be found in the program information/resources section on the Idaho ICF/IID website:

<http://healthandwelfare.idaho.gov/Providers/Providers-Facilities/StateFederalPrograms/ICFID/tabid/431/Default.aspx>

Task Seven: Record Review

Surveyors will review those parts of the record most relevant to:

- The Individual Program Plan (IPP)
- Program Monitoring and Change
- Health and Safety Supports
- Compliance with Key Regulations

Task Seven: Record Review

The Individual Program Plan (IPP):

- Surveyors will identify the developmental, behavioral, and health objectives the facility has committed itself to accomplish during the current IPP period.
- Surveyors will identify what, if any, behavioral strategies (e.g., behavior modification programs, use of psychotropics) are being used with individuals in the sample.
- Surveyors will determine what, if any, health or other problems might interfere with participation in program services.

Task Seven: Record Review

Program Monitoring and Change

- Surveyors will skim the most recent interdisciplinary team review notes to identify what revisions were made to the IPP.
- Surveyors will determine whether revisions were based on objective measures of the individual's progress, regression, or lack of progress toward his/her objectives.

Task Seven: Record Review

Health and Safety Supports

- Surveyors will verify, either through the interdisciplinary team review notes or through the most recent nursing notes, that the individual has received follow-up services for any health or dental needs identified in the IPP and check the person's current drug regimen.
- For individuals with whom restrictive or intrusive techniques are used, surveyors will verify that the necessary consents and approvals have been obtained.

Exit Conference

- The Team Leader and Administrator arranged the place and time of the exit in advance. Persons attending the exit are at the discretion of the facility Administrator.
- During the exit conference, surveyors will provide the facility administrator with all areas of concern determined to not be met during the survey and provide examples as necessary. The facility may provide additional information if it chooses.
- It is important to remember that all findings are preliminary and final compliance determinations will be made by the survey office.

Post-Survey Activities

- After the exit conference, the Form CMS-2567, Statement of Deficiencies and Plan of Correction, which specifies the deficient practice identified during a survey and supports the citation with evidence about how the facility failed to comply with federal requirements (W tags), is written.
- The Bureau of Facility Standards State Form, Statement Deficiencies and Plan of Correction, which specifies the state deficiencies identified during a survey and supports the citation with evidence about how the facility failed to comply with the state requirements (M tags) is also written. The deficiencies may be stated as a referral to a W tag.

Post-Survey Activities

- Form CMS-2567 and State Form are sent to the facility within 10 business days from the date of the survey exit.
- The facility is then required to respond to the deficiencies with an acceptable Plan of Correction for each deficiency within 10 calendar days. Additional information on completing Plans of Correction can be found under Regulatory Requirements and Guidance on the Idaho ICF/IID website (Guidance section):
<http://healthandwelfare.idaho.gov/Providers/Providers-Facilities/StateFederalPrograms/ICFID/tabid/431/Default.aspx>
- Additionally, if the facility does not agree with the survey findings, as documented on the 2567, the facility does have the opportunity to dispute the findings through the Informal Dispute Resolution (IDR) process. Additional information on the IDR process can be found in the program information/resources section on the Idaho ICF/IID website: <http://healthandwelfare.idaho.gov/Providers/Providers-Facilities/StateFederalPrograms/ICFID/tabid/431/Default.aspx>

References

- 1. State Operations Manual, Part II, Appendix J - Interpretive Guidelines – Responsibilities of Intermediate Care Facilities for Individuals with Intellectual Disabilities. Retrieved from https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107ap_j_intermcare.pdf
- 2. State Operations Manual Appendix Q – Core Guidelines for Determining Immediate Jeopardy - (Rev. 187, Issued: 03-06-19). Retrieved from <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2019Downloads/R187SOMA.pdf>
- 3. IDAPA 16.03.11 - Rules Governing Intermediate Care Facilities For People With Intellectual Disabilities (ICF/ID). Retrieved from <https://adminrules.idaho.gov/rules/current/16/160311.pdf>
- 4. State Operations Manual (SOM) Exhibit 355 containing surveyor probes and procedures previously in Appendix J, Part II – Interpretive Guidelines for ICF/IID. Retrieved from <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R135SOMA.pdf>

Send your comments or questions to
fsb@dhw.idaho.gov