



# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF PUBLIC WELFARE

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**SUBJECT**

Educational and Vocational Training  
in Intermediate Care Facilities for  
the Mentally Retarded

BY

A handwritten signature in black ink, appearing to read "Nancy R. Thaler".

Nancy R. Thaler  
Deputy Secretary for Mental Retardation

**SCOPE:**

County Mental Health/Mental Retardation Administrators  
Non-state Operated Intermediate Care Facility for the  
Mentally Retarded (ICF/MR) Directors  
State Center and Mental Retardation Unit Directors

**PURPOSE**

The purpose of this Bulletin is to provide guidance to intermediate care facilities for the mentally retarded (ICFs/MR) in order to avoid federal audit disallowances related to educational and vocational training services which are appropriately funded as active treatment services under the ICF/MR funding stream.

**BACKGROUND**

Mental Retardation Bulletin No. 99-87-01 was issued on March 5, 1987. Subsequently, final regulations for "Prohibitions On FFP: Institutionalized Individuals," at 42 CFR § 441.13(b) have been published by the Health Care Financing Administration (HCFA) on November 20, 1992, effective December 21, 1992. This Bulletin updates and clarifies the information previously contained in Mental Retardation Bulletin No. 99-87-01.

Medicaid regulations found at 42 CFR § 441.13(b), "Prohibitions On FFP: Institutionalized Individuals," prohibit federal financial participation (FFP) for formal educational services or vocational services, except for active treatment services as defined in 42 CFR § 483.440(a). This prohibition against payment for educational and vocational services in ICFs/MR has been contained in Medicaid Regulations since 1974, when initial federal ICF/MR regulations were published. The reasons for this exclusion are a.) Medicaid is primarily a medical assistance program designed to provide medical care and services and b.) Medicaid is a "payor of last resort" and educational and vocational funding streams are utilized primarily for such services.

**REFER COMMENTS AND QUESTIONS TO:**

Office of Mental Retardation, Division of Direct Contract Programs, Room 512  
Health & Welfare Bldg., Harrisburg, PA 17105-2675; Telephone: (717) 783-5314.

The revised Medicaid regulations at 42 CFR § 441.13(b) define formal educational services as training in traditional academic subjects, including but not limited to science, history, literature, foreign languages, and mathematics. The regulations further state that the subject matter, and not the setting, time of day, or class size, determine whether a service is educational. The Medicaid regulations define vocational services as organized programs that are directly related to preparing persons for paid or unpaid employment. For example, a vocational service may be a time limited vocational training program provided as part of a regularly scheduled class, available to the general public.

### DISCUSSION

Based upon 42 CFR § 441.13(b) educational or vocational training that is documented to be a necessary part of active treatment is considered under Medicaid to be "Medical or Remedial", and therefore is a covered service eligible for Medicaid funding.

Medicaid regulations found at § 483.440(a) define active treatment services as a "continuous active treatment program, which includes an aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services described in the subpart, that is directed toward: (1) the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; (2) the prevention or deceleration of regression or loss of current optimal functional status."

It is important that ICFs/MR appropriately distinguish and document those educational and vocational training services that cannot be funded by other sources, and, therefore, can be appropriately claimed for reimbursement under the ICF/MR funding stream.

ICFs/MR must carefully document the nature and appropriateness of services claimed for reimbursement under the ICF/MR funding stream, keeping in mind the HCFA Regulations found at § 441.13(b). Careful attention must be focused on the appropriate provision of educational services or vocational services provided and documented as part of active treatment services. Educational or vocational services provided and funded under ICF/MR must be clearly defined and distinguished from services provided and reimbursed under other Federal funding streams.

### GUIDELINES

Following are recommended strategies that ICF/MR providers may consider to appropriately include educational and vocational training services under the ICF/MR funding stream:

1. Services claimed for reimbursement under the ICF/MR funding stream, including educational or vocational services provided as part of "active treatment," should be referred to as habilitative training and provided and documented as part of each person's individual active treatment plan.
2. Providers should define "educational" or "vocational" services consistent with the revised Medicaid regulations (42 CFR § 441.13(b)).
3. Any contracts for services, and documentation contained in individual's records should systematically refer to educational or vocational services provided as part of "active treatment services", as allowable in accordance with Medicaid regulations.
4. Careful documentation should be established to fully integrate habilitative training specified in the individual's plan of active treatment with the training actually provided to persons both within the ICF/MR and in other settings.
5. ICFs/MR should pursue funding for educational and vocational services primarily through the Department of Education and the Office of Vocational Rehabilitation. Documentation should be maintained related to the unavailability of other funding sources and especially any findings of the ineligibility of persons for funding by sources other than Medicaid.
6. ICFs/MR should develop clear policies regarding those services provided under ICF/MR versus those services provided by other appropriate funding streams.
7. Particular attention should focus on the purpose of vocational services for individuals, especially whether the service is related to preparation for paid or unpaid employment. Distinctions should be made between such activities and other services related to increasing overall skill levels or the functioning capacities of the individual.

**OBSOLETE BULLETIN:**

**OMR Bulletin #99-87-01, issued March 5, 1987, Titled "ICF/MR Program - Education/Vocational Training"**