

**249K.5 Participation criteria.**

1. The Medicaid program shall administer [this chapter](#). The department shall adopt rules, pursuant to [chapter 17A](#), to administer [this chapter](#).

2. A provider requesting instant relief or a nondirect care limit exception under [this chapter](#) shall meet one of the following criteria:

a. The nursing facility for which relief or an exception is requested is in violation of life safety code requirements and changes are necessary to meet regulatory compliance.

b. The nursing facility for which relief or an exception is requested is proposing development of a home and community-based services waiver program service that meets the following requirements:

(1) The service is provided on the direct site and is a nonnursing service.

(2) The service is provided in an underserved area, which may include a rural area, and the nursing facility provides documentation of this.

(3) The service meets all federal and state requirements.

(4) The service is adult day care, consumer directed attendant care, assisted living, day habilitation, home delivered meals, personal emergency response, or respite.

c. The nursing facility for which relief or an exception is requested is proposing replacement or enhancement of an HVAC, as defined in [section 105.2](#), system for improved infection control.

3. In addition to any other factors to be considered in determining if a provider is eligible to participate under [this chapter](#), the Medicaid program shall consider all of the following:

a. The history of the provider's regulatory compliance.

b. The historical access to nursing facility services for medical assistance program beneficiaries.

c. The provider's dedication to and participation in quality of care, considering all quality programs in which the provider has participated.

d. The provider's plans to facilitate person-directed care.

e. The provider's plans to facilitate dementia units and specialty post-acute services.

4. a. Any relief or exception granted under [this chapter](#) is temporary and shall be immediately terminated if all of the participation requirements under [this chapter](#) are not met.

b. If a provider's medical assistance program or Medicare certification is revoked, any existing exception or relief shall be terminated and the provider shall not be eligible to request subsequent relief or an exception under [this chapter](#).

5. Following a change in ownership, relief or an exception previously granted shall continue and future rate calculations shall be determined under the provisions of [441 IAC 81.6\(12\)](#) relating to termination or change of ownership of a nursing facility.

[2007 Acts, ch 219, §39, 41, 43; 2022 Acts, ch 1131, §80; 2023 Acts, ch 19, §822](#)