

5101:3-3-30.1 **Calculation, billing, payment remittance, and appeal process for the franchise permit fee (FPF) for nursing facilities (NFs), nursing homes (NHs), hospitals, and intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD).**

(A) FPF calculation: NFs, NHs, hospitals, and ICFs-MR/DD.

- (1) The Ohio department of job and family services (ODJFS) shall annually assess each NF, NH, hospital, and ICF-MR/DD a FPF based on beds as defined in rule 5101:3-3-30 of the Administrative Code.
- (2) The FPF shall be calculated as follows: number of beds, multiplied by the number of days in the fiscal year, multiplied by the applicable per bed FPF rate.
 - (a) The NF, NH, and hospital FPF bed rate shall be six dollars and twenty-five cents for fiscal years 2006 and 2007, and one dollar for each fiscal year thereafter.
 - (b) The ICF-MR/DD FPF bed rate shall be nine dollars and sixty-three cents for fiscal year 2006. Beginning July 1, 2007 and the first day of each July thereafter, the FPF shall be adjusted in accordance with the composite inflation factor established under section 5112.39 of the Revised Code.

(B) Billing cycle of the FPF: NFs, NHs, hospitals, and ICFs-MR/DD.

- (1) By August fifteenth of each year, ODJFS shall determine the annual FPF for each NF, NH, hospital, and ICF-MR/DD in accordance with rule 5101:3-3-30 of the Administrative Code.
- (2) If between May first and July thirty-first, bed changes occur as a result of a change of operator, or by a bed transfer authorized by the Ohio department of health (ODH) certificate of need or the Ohio department of mental retardation/developmental disability (ODMR/DD) approval processes, the FPF assessment shall be issued to the operator that receives the beds or assumes operation of the facility.
- (3) By September first of each year, ODJFS shall notify each facility of the amount of the FPF that has been assessed.
- (4) The assessment notice shall include the ODH state identification (ID) number, which shall be used as the ODJFS operator fee number for the purpose of facility identification.

(C) Appeal of the FPF determination: NFs, NHs, hospitals, and ICFs-MR/DD.

- (1) The FPF may be appealed only on the basis that ODJFS committed a material error in determining the amount of the fee.
- (2) Before requesting an appeal, a facility should contact the ODJFS bureau of long term care facilities (BLTCF) to discuss the problem.
- (3) If the problem cannot be resolved informally, the facility may file an appeal in accordance with the following procedures:
 - (a) The appeal shall be in writing and must be received by ODJFS not later than fifteen days after the date on which the FPF assessment notice was mailed.
 - (b) The appeal shall be submitted to ODJFS and addressed to the organization listed in the instructions that are sent with the assessment notice. If this address is invalid, the facility shall contact BLTCF.
 - (c) The appeal shall indicate that it is an appeal of the FPF due to a possible material error in determining the fee.
 - (d) The appeal shall include a detailed explanation of the possible material error and the proposed correction of the amount of the fee.
 - (e) The appeal shall include references to the relevant sections of the Revised Code or rules of the Administrative Code that support the position of the appeal.
- (4) Within thirty days of receiving a timely request for an appeal, ODJFS shall conduct a public hearing in Columbus, Ohio, to determine the validity of the FPF calculation.
- (5) At least ten days prior to the date of the public hearing, ODJFS shall notify the facility of the time, date, and location of the hearing.
- (6) If a representative of the facility is unable to attend the hearing, the representative shall request a teleconference hearing at least five days prior to the scheduled hearing.
- (7) ODJFS may adjust the amount of a facility's FPF based on the evidence presented at the public hearing. The decision of ODJFS in this matter shall be final.

(D) Remittance of FPF payment: NFs, NHs, hospitals, and ICFs-MR/DD.

- (1) The FPF is payable in four quarterly installments.

- (a) The first installment for the state fiscal year is due on or before November fourteenth.
- (b) The remaining three installments are due on or before February fourteenth, May fifteenth, and August fourteenth.
- (2) All checks, money orders, and other payment forms shall include the operator fee number of the facility that was originally assessed the FPF, be made payable to "Treasurer of the State of Ohio," and be mailed to the address on the assessment notice or subsequent payment address change notice.
- (3) If the mailing address changes, ODJFS shall notify the operator.
- (4) Electronic collections.

 - (a) ODJFS may establish an electronic method to collect the FPF from each medicaid certified facility that holds an ODJFS provider agreement by deducting the amount due from the facility's medicaid payment.
 - (b) ODJFS shall notify the affected facilities, in writing, sixty days prior to the initiation of electronic collections.
 - (c) To ensure crediting the electronic collection to the correct facility, the ODH state ID number shall be used for the facility ID number.
 - (d) To ensure crediting the electronic collection to the correct quarter due, a transaction number shall be used.
- (5) Payment enforcement.

 - (a) Pursuant to rule 5101:3-3-30.2 of the Administrative Code, ODJFS may impose penalties and take other actions to enforce FPF payments.
 - (b) In the event of a change of operator, if an FPF payment is not received by the payment due date, ODJFS may collect the FPF and any applicable penalties from any operator, or any entity responsible for the FPF, as indicated in the applicable agreements between operators, that is or was responsible for the facility operation during or after the quarter for which the installment payment was due.
 - (c) In the event of a closure, regardless of whether the license or registration of the beds is surrendered, held for future use, or held for sale of the beds, any FPF assessments issued remain payable debts, and if unpaid will be referred for collection.
 - (d) In the event of a transfer of beds, if an FPF payment associated with those

beds is not received by the payment due date, ODJFS may collect the FPF and any applicable penalties from any operator, or any entity responsible for the FPF as indicated in the applicable agreements between entities.

(e) Payments for all FPF assessments shall be tracked by the operator fee number of the facility that was originally billed for the FPF.

(E) Prohibition against billing residents for the FPF: NFs, NHs, hospitals, and ICFs-MR/DD.

A facility assessed a FPF under rule 5101:3-3-30 of the Administrative Code shall not directly bill its residents or directly pass the FPF through to its residents.

Replaces: 5101:3-3-49.3, 5101:3-3-82.3

Effective:

R.C. 119.032 review dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3721.511, 3721.58, 5111.02, 5112.39
Rule Amplifies: 3721.50 to 3721.58, 5112.30 to 5112.35, 5112.37 to 5112.39
Prior Effective Dates: 9/30/93 (Emer), 1/1/94, 1/12/96, 9/30/01, 2/11/02, 9/30/02, 9/30/03 (Emer), 2/11/03, 4/12/04, 7/1/05