

TO BE RESCINDED

5101:3-3-02.1 **Length and type of long term care provider agreements.**

(A) Definitions.

- (1) "Reasonable assurance period" means a certain period of time, determined by the centers for medicare and medicaid services (CMS), for which a long term care facility operator whose provider agreement has been involuntarily terminated is required to operate without recurrence of the deficiencies that were the basis for termination. Participation in the medicare and medicaid programs may resume only following that period. If corrections were made before submission of a new request for participation, the period of compliance before the new request is counted as part of the period.
- (2) "State survey agency" means the agency that is under contract with the state medicaid agency and that inspects long term care facilities for the purposes of survey and certification. The state survey agency in Ohio is the Ohio department of health (ODH). The state medicaid agency in Ohio is the Ohio department of job and family services (ODJFS).
- (3) "Time-limited agreement" (TLA) means an agreement that is in effect for a specified period of time.

(B) Effective dates - skilled nursing facilities (SNFs), nursing facilities (NFs), SNF/NFs and intermediate care facilities for the mentally retarded (ICFs-MR).

(1) NFs and SNF/NFs.

(a) Initial certification of NFs and SNF/NFs.

- (i) Effective dates of NF and SNF/NF provider agreements generally are assigned by the state survey agency on the basis of findings of compliance or substantial compliance with standards of certification.
- (ii) The effective date shall not be earlier than the date on which compliance is documented via the state survey agency's onsite visits to the institution.
- (iii) The effective date of a provider agreement of a nursing facility that participates in the medicaid program as a SNF/NF shall be the same as that of the facility's medicare provider agreement.

(b) NFs subsequently approved to operate as SNF/NFs.

- (i) Upon approval from CMS of a NF to participate in the medicare program as a SNF/NF, ODJFS shall issue a SNF/NF provider agreement.
- (ii) The effective date of this provider agreement shall be the same as that of the facility's medicare provider agreement.

(c) Re-entry into the program following involuntary termination.

- (i) Following involuntary termination of the medicaid provider agreement for a nursing facility, the provider agreement effective date of a facility re-entering the medicaid program shall be the same effective date as the date CMS issues for the facility's medicare provider agreement.
- (ii) Re-entry may occur only after the successful completion of a reasonable assurance period as determined by CMS.

(2) ICFs-MR.

(a) Initial certification of ICFs-MR.

Effective dates of initial ICF-MR provider agreements generally are assigned by the state survey agency on the basis of findings of compliance or substantial compliance with standards of certification.

(b) Re-entry into the program following involuntary termination by CMS.

If an ICF-MR provider agreement is involuntarily terminated by CMS as the result of a look behind survey, re-entry into the medicaid program requires satisfaction of the CMS-imposed reasonable assurance period as set forth in the "Medicaid State Operations Manual," Chapter 2 section 2016F (10/01/10).

(C) Term limits - NFs, SNF/NFs and ICFs-MR.

- (1) The term of a provider agreement shall be based on the period of certification established by the state survey agency.

(2) The actual term of the agreement may be less than, but shall not exceed, the certification period recommended by the state survey agency.

(3) NFs and SNF/NFs.

(a) NFs and SNF/NFs are governed by open-end provider agreements.

(b) Open-end agreements have no specific expiration date.

(c) Continuation of an open-end provider agreement is contingent upon findings of continued compliance or substantial compliance with certification standards as determined by the state survey agency.

(4) ICFs-MR.

(a) ICFs-MR are governed by closed-end provider agreements, also known as time-limited agreements (TLAs).

(b) TLAs are in effect for a specified period of time, not to exceed twelve months, except as specified in paragraph (D) of this rule.

(c) TLAs must be renewed in order for the facility to continue participation in the medicaid program.

(D) Term extensions - ICFs-MR only.

(1) The purpose of term extensions is to allow the state survey agency sufficient time to complete the certification review process and/or the administrative appeals process.

(2) Reasons for term extensions include:

(a) Prevention of irreparable harm to the facility;

(b) Prevention of hardship to residents in the facility; and

(c) Scenarios rendering it impossible to determine, before the original expiration date on the provider agreement, if the facility continues to meet certification requirements.

(3) Conditions of term extensions.

- (a) ODJFS may extend the term of an ICF-MR provider agreement for a single time period, not to exceed two months, beyond the original expiration date on the agreement. The time period of the subsequent provider agreement shall then be reduced by the number of months by which the first provider agreement was extended.
- (b) ODJFS must receive written notice from the state survey agency before the original expiration date.
- (c) The notice from the state survey agency must certify that the extension does not jeopardize the health or safety of residents in the facility.

(E) Conditional agreements and cancellation clauses - ICFs-MR only.

(1) Conditional agreements.

- (a) If the state survey agency determines that an ICF-MR is in substantial compliance with medicaid standards but has deficiencies that must be corrected, ODJFS may execute a conditional provider agreement.
- (b) ODJFS may execute a conditional agreement for a term of up to twelve full calendar months, subject to an automatic cancellation clause.

(2) Cancellation clause.

- (a) The ICF-MR must correct deficiencies within sixty days following the scheduled date of correction as established by the state survey agency.
- (b) Post-survey revisits.
 - (i) If deficiencies are corrected before the cancellation date, the state survey agency may rescind the cancellation notice, and shall notify ODJFS in writing of the decision.
 - (ii) If deficiencies are not corrected before the cancellation date, the state survey agency may propose termination of the provider agreement.

- (3) If deficiencies in an ICF-MR are not corrected, ODJFS may cancel the provider agreement in accordance with section 5111.06 of the Revised Code, unless one of the following occurs:
- (a) The state survey agency finds that all required corrections have been made, and notifies ODJFS; or
 - (b) The state survey agency determines that substantial progress has been made in carrying out a plan of correction that has been submitted to and accepted by the state survey agency.

Effective: 01/10/2013

R.C. 119.032 review dates: 10/16/2012

CERTIFIED ELECTRONICALLY

Certification

12/21/2012

Date

Promulgated Under: 119.03
Statutory Authority: 5111.02
Rule Amplifies: 5111.01, 5111.02, 5111.22, 5111.31
Prior Effective Dates: 4/4/77, 12/30/77, 1/1/79, 3/23/79, 8/31/79, 11/1/79,
7/1/80, 7/7/80, 10/1/87, 1/1/95, 5/16/02, 9/29/05,
2/15/11