

5160-3-02.4      **Nursing facilities (NFs): Mandatory mandatory dual participation by nursing facilities (NFs) in the medicare program.**

(A) Definitions.

- (1) For purposes of this rule, the terms "certified beds," "~~distinct part,~~" "dually participating," "facility," and "religious non-medical health care institution" (RNHCI) are defined in rule ~~5101:3-3-02.3~~5160-3-02.3 of the Administrative Code.
- (2) For purposes of this rule, the term "reasonable assurance period" is defined in rule ~~5101:3-3-02.1~~5160-3-02.1 of the Administrative Code.
- (3) "Fully participating" means participation of an institution in its entirety, either in the medicare or medicaid program, or both. A fully participating skilled nursing facility (SNF) is one in which every bed is certified for participation in medicare. A fully participating nursing facility (NF) is one in which every bed is certified for participation in medicaid. A fully participating SNF/NF is one in which every bed is certified for participation in both medicare and medicaid.

(B) Mandatory ~~SNF~~ medicare participation and exceptions.

- (1) Operators of Ohio NFs shall have all medicaid-certified beds as counted in the medicaid provider agreement also certified under medicare as SNF beds, in accordance with section 5165.082 of the Revised Code and the provisions of this rule.
- (2) Exceptions to mandatory ~~SNF~~medicare participation are:
  - (a) RNHCIs; ~~and,~~
  - (b) Veteran's homes operated under Chapter 5907. of the Revised Code; ~~and,~~
  - (c) ~~A NF that has distinct part beds that are not required or permitted to participate in medicaid in accordance with~~ Out-of-state providers of long term care institutional services in accordance with the criteria specified in paragraph (G) of rule 5101:3-3-02.3~~5160-3-02.3 of the Administrative Code or section 3702.522 of the Revised Code. These beds are excluded from the requirement to be both dually and fully participating SNF/NF certified beds.~~

(d) Hospital beds re-categorized as skilled nursing beds after August 5, 1989 in accordance with section 3702.521 of the Revised Code. These beds are not permitted to be covered by a medicaid provider agreement.

(C) ~~SNF/NFs that are both dually and fully participating are in compliance~~Dual and full participation.

(1) Operators of Ohio NFs currently holding a medicaid provider agreement under which all medicaid-certified beds are also medicare-certified are in compliance with the requirement for NFs to be both dually and fully participating SNF/NFs.

(2) Pursuant to rule ~~5101:3-3-02.2~~5160-3-02.2 of the Administrative Code, the Ohio department of ~~job and family services (ODJFS)~~medicaid (ODM) shall terminate or not ~~renew~~ revalidate an operator's provider agreement if the provider fails to ensure a nursing facility's full participation in the medicare program as a SNF.

(D) Enrollment of new facilities ~~in the medicaid program.~~

(1) Operators of Ohio facilities requesting participation in the medicaid NF program must provide documentation that they have requested full participation in the medicare SNF program.

(2) Operators of Ohio facilities requesting participation in the medicaid NF program that have been recommended for medicaid certification by the Ohio department of health (ODH) and that have provided documentation that they have requested full participation in the medicare SNF program, may be issued a fully participating NF medicaid provider agreement with an effective date determined in accordance with rule ~~5101:3-3-02.1~~5160-3-02.1 of the Administrative Code.

(3) After ~~ODJFS~~ ODM is notified by the centers for medicare and medicaid services (CMS) that a facility operator's request for medicare certification has been approved, a SNF/NF provider agreement may be issued by ~~ODJFS~~ ODM using the medicare SNF's effective date of certification in accordance with rule ~~5101:3-3-02.1~~5160-3-02.1 of the Administrative Code.

(4) If ~~ODJFS~~ ODM is notified by CMS that a facility operator's request for medicare participation has been denied and all appeals have been exhausted, ~~ODJFS~~ ODM shall terminate the NF's provider agreement in accordance with rule ~~5101:3-3-02.2~~5160-3-02.2 of the Administrative Code.

(E) ~~Readmission of an Ohio facility~~ to the medicaid program.

- (1) A facility operator requesting readmission to the medicaid program must provide documentation of the request for admission or readmission, and of full participation in the medicare SNF program.
- (2) If a facility's participation in the medicaid program ends due to voluntary withdrawal from participation by the operator, and the operator requests readmission to the medicaid NF program, enrollment will be processed in the same manner as for a new facility as set forth in paragraph (D) of this rule.
- (3) If a facility's participation in the medicaid program ends due to involuntary termination, cancellation, or non-renewal revalidation by ~~ODH~~SODM, and ODH recommends that the facility receive certification, ~~ODH~~ODM may issue a provider agreement that begins on or after the effective date of medicare certification or recertification. If CMS has imposed a reasonable assurance period prior to re-entry to the medicare program, the reasonable assurance period also shall be imposed for medicaid enrollment purposes.

(F) ~~Facilities undergoing a change~~Change of operator.

If a SNF/NF undergoes a change of operator that results in a change of provider agreement, the entering operator must either accept assignment of the exiting operator's provider agreement and survey results, or refuse assignment and undergo a new certification survey. An operator may accept or refuse assignment of the medicare provider agreement and/or the medicaid provider agreement.

- (1) If an entering operator of a SNF/NF accepts assignment of both the medicare and medicaid provider agreements of the exiting operator, ~~ODH~~ODM shall issue a SNF/NF provider agreement to the entering operator. The entering operator must continue to operate a dually participating facility that fully participates in both the medicare and medicaid programs.
- (2) If an entering operator of a SNF/NF refuses to accept assignment of the exiting operator's medicare provider agreement, but does accept assignment of the exiting operator's medicaid provider agreement, the entering operator must meet requirements for medicare participation in the same manner as for a new facility as set forth in paragraph (D) of this rule.
- (3) If an entering operator of a SNF/NF refuses to accept assignment of the exiting operator's medicaid provider agreement, ~~ODH~~ODM shall terminate the agreement of the exiting operator. To enter the medicaid program, the

entering operator must apply for medicaid participation as a new facility. Upon notice of certification approval from ODH, ~~ODHS~~ ODM may issue a medicaid provider agreement to the entering operator in the same manner as for new facilities as set forth in paragraph (D) of this rule.

Effective:

Five Year Review (FYR) Dates: 03/04/2016

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5165.02  
Rule Amplifies: 5165.082  
Prior Effective Dates: 9/29/05, 2/15/11