



## Ohio Administrative Code

### Rule 5160-3-32.1 Nursing facilities (NFs): debt estimate and debt summary report procedure.

Effective: October 15, 2016

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#### (A) Debt estimate.

For the purposes of division (C) of section 5165.52 of the Revised Code, the debt estimate for change of operator, facility closure, voluntary termination, involuntary termination, or voluntary withdrawal is considered provided by the Ohio department of medicaid (ODM) on the date of mailing, date of personal service, or date of publication.

#### (B) Initial debt summary report.

(1) Whenever ODM issues an initial debt summary report pursuant to section 5165.525 of the Revised Code, ODM shall give notice to the affected party informing the affected party of the affected party's right to request a review. Notice shall be given by certified mail, return receipt requested, and shall include:

(a) A statement informing the affected party that the affected party is entitled to request a review of the initial debt summary report.

(b) A statement informing the affected party that if a request for review of the initial debt summary report is not submitted on or before thirty days after the mailing of the initial debt summary report, the initial debt summary report becomes the final debt summary report thirty-one days after the mailing of the initial debt summary report, and that the affected party may request, in accordance with Chapter 119. of the Revised Code, an adjudication hearing regarding a finding in the final debt summary report that pertains to an audit or alleged overpayment made under the medicaid program to the exiting operator. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter addressed in the final debt summary report.

(2) ODM shall also mail a copy of the notice to the affected party's attorney or other representative of record. To qualify as an attorney or representative of record, the affected party or the attorney or



representative must notify ODM, in writing, that the attorney or representative is to be designated the attorney or representative of record for purposes of receiving notice of an initial debt summary report. The notification must include the address where ODM should mail the notice to the attorney or representative of record. The mailing of notice to the affected party's attorney or representative is not deemed to perfect service of the notice. Failure to mail a copy of the notice to the attorney or representative of record will not result in failure of otherwise perfected service upon the affected party. In those instances where an affected party is a corporation or limited liability company doing business in Ohio or is incorporated in Ohio, the mailing of notice to the corporation's statutory agent pursuant to sections 1701.07, 1702.06, 1703.19, and 1705.06 of the Revised Code will perfect service. If service cannot be obtained on the statutory agent because the affected party has failed to maintain an agent, the agent cannot be found or the agent's address is no longer valid, notice may be served through the Ohio secretary of state.

(3) When any notice of an initial debt summary report sent by certified mail pursuant to this rule is returned because the affected party fails to claim the notice, ODM shall send the notice by ordinary mail to the affected party at the affected party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained unless the notice is returned showing failure of delivery.

(4) If any notice of an initial debt summary report sent by certified or ordinary mail is returned for failure of delivery, ODM shall either make personal delivery of the notice by an employee or agent of ODM, or shall cause the notice to be published once in a newspaper of general circulation in the county where the last known address of the affected party is located. When notice is given by publication, a proof-of-publication affidavit shall be mailed by ordinary mail to the affected party at the affected party's last known address and the notice shall be deemed received as of the date of publication. An employee or agent of ODM may make personal delivery of the notice upon a party at any time.

(5) Refusal of delivery of an initial debt summary report by personal service or by mail is not failure of delivery and service is deemed to be complete at the time of personal refusal or at the time of receipt by ODM of the refused mail as demonstrated by the ODM time and date stamp. Failure of delivery occurs only when a mailed notice is returned by the postal authorities marked undeliverable, address or addressee unknown, or forwarding address unknown or expired.



(6) Any request for a review made as the result of notice of an initial debt summary report issued pursuant to paragraph (B) of this rule must be made in writing and mailed or delivered to the ODM office and address identified in the initial debt summary report within thirty calendar days of the following, as applicable:

(a) The time of mailing the notice if notice is given pursuant to paragraph (B)(1) of this rule.

(b) The date that service is complete if notice is given pursuant to paragraph (B)(3) or (B)(5) of this rule.

(c) The date of personal service.

(d) The date of publication.

(e) The time of mailing or acceptance of the notice by the Ohio secretary of state, whichever is applicable, if notice by the Ohio secretary of state is given pursuant to paragraph (B)(2) of this rule.

(7) If a request for review is mailed to the ODM office and address identified in the initial debt summary report, the request is deemed to have been made as follows:

(a) If the request is mailed by certified mail, as of the date stamped by the U.S. postal service on its receipt form (PS form 3800 or any future equivalent postal service form).

(b) If the request is mailed by regular U.S. mail, as of the date of the postmark appearing upon the envelope containing the request.

(c) If the request is mailed by regular U.S. mail and the postmark is illegible or fails to appear on the envelope, as of the date of its receipt by the ODM office identified in the initial debt summary report as evidenced by that office's time stamp.

(8) If a request for review is made by facsimile transmission or by electronic mail to the office identified in the initial debt summary report, the request is deemed to have been made as of the date



of its receipt as evidenced by the receipt date generated by the facsimile transmission or the date of receipt shown in the source code of the electronic mail received by the office identified in the initial debt summary report.

(9) If a request for review is mailed, personally delivered, made by facsimile transmission, or made by electronic mail to a party or address other than the proper office identified in the initial debt summary report, the request is deemed to have been made as of the date of its receipt by the office identified in the initial debt summary report as evidenced by that office's time stamp.

(10) If a request for review is personally delivered to the office identified in the initial debt summary report, the request is deemed to have been made as of the date of its receipt as evidenced by that office's time stamp.

(11) All requests for review must clearly identify both the affected party involved and the initial debt summary report that is being contested.

(C) Revised debt summary report.

(1) Whenever ODM issues a revised debt summary report pursuant to section 5165.525 of the Revised Code, ODM shall give notice to the affected party informing the affected party of the affected party's right to submit additional information. Notice shall be given by certified mail, return receipt requested, and shall include:

(a) A statement informing the affected party that the affected party is entitled to submit additional information.

(b) A statement informing the affected party that if additional information is not submitted on or before thirty days after the mailing of the revised debt summary report, the revised debt summary report becomes the final debt summary report thirty-one days after the mailing of the revised debt summary report, and that the affected party may request, in accordance with Chapter 119. of the Revised Code, an adjudication hearing regarding a finding in the final debt summary report that pertains to an audit or alleged overpayment made under the medicaid program to the exiting operator. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter



addressed in the final debt summary report.

(2) ODM shall also mail a copy of the notice to the affected party's attorney or other representative of record. To qualify as an attorney or representative of record, the affected party or the attorney or representative must notify ODM, in writing, that the attorney or representative is to be designated the attorney or representative of record for purposes of receiving notice of a revised debt summary report. The notification must include the address where ODM should mail the notice to the attorney or representative of record. The mailing of notice to the affected party's attorney or representative is not deemed to perfect service of the notice. Failure to mail a copy of the notice to the attorney or representative of record will not result in failure of otherwise perfected service upon the affected party. In those instances where an affected party is a corporation or limited liability company doing business in Ohio or is incorporated in Ohio, the mailing of notice to the corporation's statutory agent pursuant to sections 1701.07, 1702.06, 1703.19, and 1705.06 of the Revised Code will perfect service. If service cannot be obtained on the statutory agent because the affected party has failed to maintain an agent, the agent cannot be found, or the agent's address is no longer valid, notice may be served through the Ohio secretary of state.

(3) When any notice of a revised debt summary report sent by certified mail pursuant to this rule is returned because the affected party fails to claim the notice, ODM shall send the notice by ordinary mail to the affected party at the affected party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained unless the notice is returned showing failure of delivery.

(4) If any notice of a revised debt summary report sent by certified or ordinary mail is returned for failure of delivery, ODM shall either make personal delivery of the notice by an employee or agent of ODM, or shall cause the notice to be published once in a newspaper of general circulation in the county where the last known address of the affected party is located. When notice is given by publication, a proof-of-publication affidavit shall be mailed by ordinary mail to the affected party at the affected party's last known address and the notice shall be deemed received as of the date of publication. An employee or agent of ODM may make personal delivery of the notice upon a party at any time.

(5) Refusal of delivery of a revised debt summary report by personal service or by mail is not failure



of delivery and service is deemed to be complete at the time of personal refusal or at the time of receipt by ODM of the refused mail as demonstrated by the ODM time and date stamp. Failure of delivery occurs only when a mailed notice is returned by the postal authorities marked undeliverable, address or addressee unknown, or forwarding address unknown or expired.

(6) Any submission of additional information made as the result of notice of a revised debt summary report issued pursuant to paragraph (C) of this rule must be made in writing and mailed or delivered to the ODM office and address identified in the revised debt summary report within thirty calendar days of the following, as applicable:

- (a) The time of mailing the notice if notice is given pursuant to paragraph (C)(1) of this rule.
  - (b) The date that service is complete if notice is given pursuant to paragraph (C)(3) or (C)(5) of this rule.
  - (c) The date of personal service.
  - (d) The date of publication.
  - (e) The time of mailing or acceptance of the notice by the Ohio secretary of state, whichever is applicable, if notice by the Ohio secretary of state is given pursuant to paragraph (C)(2) of this rule.
- (7) If a submission of additional information is mailed to the ODM office and address identified in the revised debt summary report, the request is deemed to have been made as follows:
- (a) If the submission of additional information is mailed by certified mail, as of the date stamped by the U.S. postal service on its receipt form (PS form 3800 or any future equivalent postal service form).
  - (b) If the submission of additional information is mailed by regular U.S. mail, as of the date of the postmark appearing upon the envelope containing the request.
  - (c) If the submission of additional information is mailed by regular U.S. mail and the postmark is illegible or fails to appear on the envelope, as of the date of its receipt by ODM office identified in



the revised debt summary report as evidenced by that office's time stamp.

(8) If a submission of additional information is made by facsimile transmission or by electronic mail to the office identified in the revised debt summary report, the submission is deemed to have been made as of the date of its receipt as evidenced by the receipt date generated by the facsimile transmission or the date of receipt shown in the source code of the electronic mail received by the office identified in the revised debt summary report.

(9) If a submission of additional information is mailed, personally delivered, made by facsimile transmission, or made by electronic mail to a party or address other than the proper office identified in the revised debt summary report, the request is deemed to have been made as of the date of its receipt by the office identified in the revised debt summary report as evidenced by that office's time stamp.

(10) If a submission of additional information is personally delivered to the office identified in the revised debt summary report, the request is deemed to have been made as of the date of its receipt as evidenced by that office's time stamp.

(11) All submissions of additional information must clearly identify both the affected party involved and the revised debt summary report that is being contested.

(D) Final debt summary report.

Rule 5160-70-03 of the Administrative Code shall apply if a party timely submits a request for review, and additional information in response to a revised debt summary report, and ODM issues a final debt summary report pursuant to section 5165.525 of the Revised Code. An adjudication on a final debt summary report shall be conducted only with respect to findings in the final debt summary report that pertain to an audit or alleged overpayment made under the medicaid program to the exiting operator. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter addressed in the final debt summary report.

(E) Computation of time deadlines.



Section 1.14 of the Revised Code controls the computing of time deadlines imposed by this rule.

The time within which an act is required by law to be completed is computed by excluding the first day and including the last day. When the last day falls on a Saturday, Sunday, or legal holiday, the act may be completed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

When the last day to perform an act that is required by law is to be performed in a public office and that public office is closed to the public for the entire day, the act may be performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.