



Ohio Administrative Code

Rule 5160-71-02 Chapter 119. hearings conducted under authority of section 5111.914 of the Revised Code: notice of overpayment, negotiation of settlement, terms of settlement, referral to the attorney general for collection, and repayment.

Effective: August 1, 2011

(A) Notice of overpayment.

An issuing state agency that identifies a medicaid overpayment shall send a notification, by certified mail, return receipt requested, of the overpayment amount to the medicaid provider. The issuing state agency shall send a copy of the notification to ODJFS not later than five business days after sending the notification to the provider. The notification of overpayment shall contain a clear statement of all the following:

- (1) The amount of the overpayment including interest charges;
- (2) A general description of the grounds for the overpayment finding;
- (3) A request that the provider voluntarily repay the overpayment;
- (4) The address where payment should be made;
- (5) The acceptable methods of payment;
- (6) A statement that if voluntary repayment is not made in full within thirty days of the provider's receipt of notification that the issuing state agency will proceed with formal notice of hearing rights in accordance with section 5111.914 of the Revised Code; and
- (7) A statement that as an alternative to payment the provider may within thirty days of the date of mailing of the notification submit to the issuing state agency a written statement disputing the overpayment amount and requesting an opportunity to negotiate a settlement of the overpayment.



(B) Negotiation of settlement.

The issuing state agency may in its sole discretion attempt to negotiate a settlement in accordance with this rule. If the provider files a written request to negotiate within thirty days of the date of mailing of the notification in accordance with paragraph (A)(7) of this rule, and the issuing state agency exercises its discretion to attempt to negotiate a settlement, the issuing state agency shall notify the provider that the agency is rescinding its notification of overpayment in order to negotiate a settlement of the overpayment.

(1) The issuing state agency must submit a negotiated settlement to ODJFS for review and approval or rejection within thirty days after the provider's written statement filed in accordance with paragraph (A)(7) of this rule. If the issuing state agency does not submit a negotiated settlement to ODJFS within thirty days, the issuing state agency shall issue a notice of opportunity for hearing in accordance with section 5111.914 of the Revised Code and rule 5101:6-51-04 of the Administrative Code.

(2) If ODJFS signs the agreement or issues written approval, the provider shall make repayment under the terms of the settlement.

(3) If ODJFS rejects the settlement, the issuing state agency shall issue a notice of opportunity for hearing in accordance with section 5111.914 of the Revised Code and rule 5101:6-51-04 of the Administrative Code.

(4) If the issuing state agency exercises its discretion to not attempt to negotiate a settlement, the issuing state agency shall issue a notice of opportunity for hearing in accordance with section 5111.914 of the Revised Code and rule 5101:6-51-04 of the Administrative Code.

(C) Terms of settlement.

A negotiated settlement shall comply with the following standards:

(1) The settlement shall expressly require repayment within forty-five days of the date of the later of either full execution of the settlement or final written approval of the settlement by ODJFS.



- (2) The negotiated settlement shall cover both the federal share and state share of the amount the parties agree upon and interest charges.
- (3) The negotiated settlement shall clearly identify what disputed sums or facts are the subject of final resolution by the settlement and shall identify the grounds upon which any amounts are compromised.
- (4) The negotiated settlement may compromise the amount repaid only on the following grounds:
- (a) The provider produces evidence showing that specified sums identified are not an overpayment;
 - (b) A sum was identified as an overpayment based upon an incorrect application of law or fact; or
 - (c) A sum was identified as an overpayment based upon a clearly identified clerical error.
- (5) The settlement may contain any other terms the parties consider necessary for execution of the settlement but such terms shall be invalid if they conflict with laws or rules governing the medicaid program.
- (6) A negotiated settlement shall not be valid and enforceable unless ODJFS signs the agreement or issues other written approval of the agreement.
- (D) Nothing shall preclude settlement negotiations on the same or different grounds after the issuance of a notice of opportunity for hearing issued under authority of section 5111.914 of the Revised Code.
- (E) Referral to the attorney general for collection.
- (1) If a settlement is reached in accordance with this rule and the repayment is not received by the forty-fifth day after full execution of the settlement or final written approval of the settlement by ODJFS, the issuing state agency shall refer the matter to the attorney general's office for collection as required by section 131.02 of the Revised Code.



(2) If settlement is not reached in accordance with section 5111.914 of the Revised Code, repayment shall be due within forty-five days after the effective date of the adjudication order that is issued pursuant to a hearing initiated under section 5111.914 of the Revised Code. Except as provided in paragraph (E)(3) of this rule, if repayment is not received by the forty-fifth day after the effective date of the adjudication order, the issuing state agency shall refer the amount to the attorney general for collection as required by section 131.02 of the Revised Code.

(3) If an appeal of the adjudication order is timely filed and a stay is granted by the court within forty-five days of the issuance of the adjudication order, the issuing state agency shall not refer the matter to the attorney general's office for collection until the expiration or lifting of the order granting the stay, or until such other order of the court permits implementation of the adjudication order.

(4) An issuing state agency shall not certify a medicaid overpayment for collection by the attorney general under section 131.02 of the Revised Code without first following the procedures required by section 5111.914 of the Revised Code and Chapter 5101:6-51 of the Administrative Code.

(5) The issuing state agency shall send a report at least quarterly to ODJFS enumerating the status of recovery of any amounts identified in notices issued under authority of this rule. The report shall be in a form and manner specified by ODJFS.