



Ohio Revised Code

Section 5164.37 Suspension of provider agreement without notice.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) As used in this section:

(1) "Independent provider" has the same meaning as in section 5164.341 of the Revised Code.

(2) "Noninstitutional medicaid provider" means any person or entity with a provider agreement other than a hospital, nursing facility, or ICF/IID.

(3) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of medicaid shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules authorized by this section, on receiving notice and a copy of an indictment that is issued on or after September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid payments to the provider for medicaid services rendered.

The suspension shall continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded.

When subject to a suspension under this division, a provider, owner, officer, authorized agent,



associate, manager, or employee shall not own or provide medicaid services to any other medicaid provider or risk contractor or arrange for, render, or order medicaid services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid payments under division (C) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(2) The termination of medicaid payments applies only to payments for medicaid services rendered subsequent to the date on which the notice required under division (F) of this section is sent. Claims for payment for medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E)(1) In the case of a noninstitutional medicaid provider that is not an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would be a felony or misdemeanor under the laws of this state and the act relates to or results from either of the following:

- (a) Furnishing or billing for medicaid services under the medicaid program;
- (b) Participating in the performance of management or administrative services relating to furnishing medicaid services under the medicaid program.

(2) In the case of a noninstitutional medicaid provider that is an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would constitute a disqualifying offense as defined in section 5164.34 of the Revised Code.



(F) Not later than five days after suspending a provider agreement under division (C) of this section, the department shall send notice of the suspension to the affected provider or owner. In providing the notice, the department shall do all of the following:

(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;



(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) Rules adopted under section 5164.02 of the Revised Code may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.