



## Ohio Revised Code

### Section 5165.26 Nursing facility's per medicaid day quality incentive payment rate.

Effective: June 30, 2021

Legislation: House Bill 110

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(A) As used in this section:

(1) "Base rate" means the portion of a nursing facility's total per medicaid day payment rate determined under divisions (A), (B), and (C) of section 5165.15 of the Revised Code.

(2) "CMS" means the United States centers for medicare and medicaid services.

(3) "Force majeure event" means an uncontrollable force or natural disaster not within the power of a nursing facility's operator.

(4) "Long-stay resident" means an individual who has resided in a nursing facility for at least one hundred one days.

(5) "Nursing facilities for which a quality score was determined" includes nursing facilities that are determined to have a quality score of zero.

(6) "SFF list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program.

(7) "Special focus facility program" means the program conducted by the United States secretary of health and human services pursuant to section 1919(f)(10) of the "Social Security Act," 42 U.S.C. 1396r(f)(10).

(B) For state fiscal year 2022 and state fiscal year 2023, and subject to divisions (D), (E), and (F), and except as provided in division (G) of this section, the department of medicaid shall determine each nursing facility's per medicaid day quality incentive payment rate as follows:



- (1) Determine the sum of the quality scores determined under division (C) of this section for all nursing facilities.
  
- (2) Determine the average quality score by dividing the sum determined under division (B)(1) of this section by the number of nursing facilities for which a quality score was determined.
  
- (3) Determine the sum of the total number of medicaid days for all of the calendar year preceding the fiscal year for which the rate is determined for all nursing facilities for which a quality score was determined.
  
- (4) Multiply the average quality score determined under division (B)(2) of this section by the sum determined under division (B)(3) of this section.
  
- (5) Determine the value per quality point by determining the quotient of the following:
  - (a) The sum determined under division (F)(2) of this section.
  
  - (b) The product determined under division (B)(4) of this section.
  
- (6) Multiply the value per quality point determined under division (B)(5) of this section by the nursing facility's quality score determined under division (C) of this section.
  
- (C)(1) Except as provided in division (C)(2) of this section, a nursing facility's quality score for state fiscal year 2022 and state fiscal year 2023 shall be the sum of the total number of points that CMS assigned to the nursing facility under CMS's nursing facility five-star quality rating system for the following quality metrics based on the most recent four-quarter average data available in the database maintained by CMS and known as nursing home compare in the most recent month of the calendar year during which the fiscal year for which the rate is determined begins:
  - (a) The percentage of the nursing facility's long-stay residents at high risk for pressure ulcers who had pressure ulcers;
  
  - (b) The percentage of the nursing facility's long-stay residents who had a urinary tract infection;



- (c) The percentage of the nursing facility's long-stay residents whose ability to move independently worsened;
- (d) The percentage of the nursing facility's long-stay residents who had a catheter inserted and left in their bladder.
- (2) In determining a nursing facility's quality score for state fiscal year 2022 and state fiscal year 2023, the department shall make the following adjustment to the number of points that CMS assigned to the nursing facility for each of the quality metrics specified in division (C)(1) of this section:
- (a) Unless division (C)(2)(b) or (c) of this section applies, divide the number of the nursing facility's points for the quality metric by twenty.
- (b) If CMS assigned the nursing facility to the lowest percentile for the quality metric, reduce the number of the nursing facility's points for the quality metric to zero.
- (c) If the nursing facility's total number of points for state fiscal year 2022 or for state fiscal year 2023 for all of the quality metrics specified in division (C)(1) of this section is less than a number of points that is equal to the twenty-fifth percentile of all nursing facilities, reduce the nursing facility's points to zero for that fiscal year.
- (3) A nursing facility's quality score shall be zero for state fiscal year 2021 if it is not to receive a quality incentive payment for that state fiscal year because of division (D) of this section.
- (D)(1) Except as provided in division (D)(2) of this section, a nursing facility shall not receive a quality incentive payment for state fiscal year 2021 if the nursing facility's licensed occupancy percentage is less than eighty per cent.
- (2) Division (D)(1) of this section does not apply to a nursing facility if any of the following apply:
- (a) The nursing facility has a quality score under division (C) of this section for state fiscal year 2021



of at least fifteen points;

(b) The nursing facility was initially certified for participation in the medicaid program on or after January 1, 2019;

(c) Subject to division (D)(4) of this section, one or more of the beds that are part of the nursing facility's licensed capacity could not be used for resident care during calendar year 2019 due to causes beyond the reasonable control of the nursing facility's operator, including a force majeure event;

(d) Subject to division (D)(5) of this section, the nursing facility underwent a renovation during the period beginning January 1, 2018, and ending January 1, 2020, to which both of the following apply:

(i) The renovation involved capital expenditures of at least fifty thousand dollars, excluding expenditures for equipment, staffing, or operational costs.

(ii) The renovation directly impacted the area of the nursing facility in which the beds that are part of the nursing facility's licensed capacity are located.

(3) A nursing facility's licensed occupancy percentage for the purpose of division (D)(1) of this section shall be determined as follows:

(a) Determine the product of the following:

(i) The nursing facility's licensed capacity as of December 31, 2019, as identified on the nursing facility's cost report filed with the department pursuant to section 5165.10 of the Revised Code;

(ii) Three hundred sixty-five.

(b) Determine the quotient of the following:

(i) The total number of the nursing facility's inpatient days for calendar year 2019, as identified on



the nursing facility's cost report filed with the department pursuant to section 5165.10 of the Revised Code;

(ii) The product determined under division (D)(3)(a) of this section.

(c) Multiply the quotient determined under division (D)(3)(b) of this section by one hundred.

(4) For a nursing facility to be exempt from division (D)(1) of this section on account of division (D)(2)(c) of this section, the nursing facility's operator must provide to the department written documentation of the number of days during calendar year 2019 that one or more of the beds that are part of the nursing facility's licensed capacity could not be used and the specific reason why they could not be used.

(5) For a nursing facility to be exempt from division (D)(1) of this section on account of division (D)(2)(d) of this section, the nursing facility's operator must provide to the department written documentation that confirms the renovation and capital expenditures.

(E) A nursing facility shall not receive a quality incentive payment for state fiscal year 2022 or state fiscal year 2023 if the Department of Health assigned the nursing facility to the SFF list under the special focus facility program and the nursing facility is listed in table A, table B, or table C on the first day of May of the calendar year for which the rate is being determined.

(F) The total amount to be spent on quality incentive payments under division (B) of this section for each fiscal year during state fiscal years 2022 and 2023 shall be determined as follows:

(1) Determine the following amount for each nursing facility, including those that do not receive a quality incentive payment because of division (D) of this section:

(a) The amount that is five and two-tenths per cent of the nursing facility's base rate for nursing facility services provided on the first day of the state fiscal year plus one dollar and seventy-nine cents;

(b) Multiply the amount determined under division (F)(1)(a) of this section by the number of the



nursing facility's medicaid days for the calendar year preceding the fiscal year for which the rate is determined.

(2) Determine the sum of the products determined under division (F)(1)(b) of this section for all nursing facilities for which the product was determined for the state fiscal year.

(3) To the sum determined under division (F)(2) of this section, add twenty-five million dollars for fiscal year 2022 and one hundred twenty-five million dollars for fiscal year 2023.

(G) A new nursing facility or a nursing facility that undergoes a change of operator during fiscal year 2022 or fiscal year 2023 shall not receive a quality incentive payment for the fiscal year in which the new facility obtains an initial provider agreement or the change of operator occurred, whichever is applicable. For the immediately following state fiscal year, the quality incentive payment shall be determined under division (C) of this section.

(H) Divisions (C)(3) and (D) of this section are suspended beginning July 1, 2021, and ending June 30, 2023.