



Ohio Revised Code

Section 5165.72 Uncorrected deficiencies constituting severity level four findings.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level four finding, the department of medicaid or contracting agency shall, subject to sections 5165.79 to 5165.83 of the Revised Code, impose a remedy for the deficiency or cluster of deficiencies. The department or agency may act under either division (A)(1) or (2) of this section:

(1) The department or agency may impose one or more of the following remedies:

(a) Issue an order terminating the nursing facility's participation in the medicaid program.

(b) Do either of the following:

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility.

(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary.

(c) Do either of the following:

(i) Issue an order denying medicaid payments to the facility for all medicaid eligible residents admitted after the effective date of the order;

(ii) Impose a fine.

(d) Issue an order denying medicaid payments to the facility for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by



the department or agency.

(2) The department or agency may impose one or more of the following remedies:

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(b) Do either of the following:

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility;

(ii) Apply to the common pleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary.

(c) Do either of the following:

(i) Issue an order denying medicaid payments to the facility for all medicaid eligible residents admitted after the effective date of the order;

(ii) Impose a fine.

(d) Issue an order denying medicaid payments to the facility for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(e) Issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section 5165.69 of the Revised Code.

(B) The department of medicaid or contracting agency shall deliver a written order issued under division (A)(1) of this section terminating a nursing facility's participation in the medicaid program to the facility within five days after the exit interview. If the facility alleges, at any time prior to the later of the twentieth day after the exit interview or the fifteenth day after it receives the order, that



the deficiency or cluster of deficiencies for which the order was issued has been substantially corrected, the department of health shall conduct a follow-up survey to determine whether the deficiency or cluster of deficiencies has been substantially corrected. The order shall take effect and the facility's participation shall terminate on the twentieth day after the exit interview, unless the facility has substantially corrected the deficiency or cluster of deficiencies that constituted a severity level four finding or did not receive notice from the department of medicaid or contracting agency within five days after the exit interview. In the latter case, the order shall take effect and the facility's participation shall terminate on the fifteenth day after the facility received the order.

(C) If the department of health cites a deficiency or cluster of deficiencies pursuant to division (E) of section 5165.66 of the Revised Code that constituted a severity level four finding, the department of medicaid or a contracting agency shall, subject to section 5165.83 of the Revised Code, impose a fine. The fine shall be in effect for a period equal to the number of days the deficiency or cluster of deficiencies existed at the facility.