



Ohio Revised Code

Section 5165.75 Imposing remedies and fines.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) In determining which remedies to impose under section 5165.72, 5165.73, or 5165.74 of the Revised Code, including whether a fine should be imposed, the department of medicaid or a contracting agency shall do both of the following:

(1) Impose the remedies that are most likely to achieve correction of deficiencies, encourage sustained compliance with certification requirements, and protect the health, safety, and rights of facility residents, but that are not directed at punishment of the facility;

(2) Consider all of the following:

(a) The presence or absence of immediate jeopardy;

(b) The relationships of groups of deficiencies to each other;

(c) The facility's history of compliance with certification requirements generally and in the specific area of the deficiency or deficiencies;

(d) Whether the deficiency or deficiencies are directly related to resident care;

(e) The corrective, long-term compliance, resident protective, and nonpunitive outcomes sought by the department or agency;

(f) The nature, scope, and duration of the noncompliance with certification requirements;

(g) The existence of repeat deficiencies;

(h) The category of certification requirements with which the facility is out of compliance;



(i) Any period of noncompliance with certification requirements that occurred between two certifications by the department of health that the facility was in compliance with certification requirements;

(j) The facility's degree of culpability;

(k) The accuracy, extent, and availability of facility records;

(l) The facility's financial condition, exclusive of any moneys donated to a facility that is an organization described in subsection 501(c)(3) and is tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1;

(m) Any adverse effect that the action or fine would have on the health and safety of facility residents;

(n) If the noncompliance that resulted in the citation of a deficiency or cluster of deficiencies existed before a change in ownership of the facility, whether the new owner or owners have had sufficient time to correct the noncompliance.

(B) Whenever the department or agency imposes remedies under section 5165.72, 5165.73, or 5165.74 of the Revised Code, it shall provide a written statement to the nursing facility that specifies all of the following:

(1) The effective date of each remedy;

(2) The deficiency or cluster of deficiencies for which each remedy is imposed;

(3) The severity and scope of the deficiency or cluster of deficiencies;

(4) The rationale, including all applicable factors specified in division (A) of this section, for imposing the remedies.